



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 4366-16
AUG 14 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 May 2017. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.


You enlisted in the Marine Corps on 31 July 1980. During the period from 27 August 1980 to 24 February 1981, you received two nonjudicial punishments (NJP) for being absent from your appointed place of duty and disobeying a lawful order. On 29 July 1981, you submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial for unauthorized absence (UA) totaling 49 days. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and your discharge was approved. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 26 July 1981, you were discharged with an other than honorable characterization of service.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and assertions that you were young, bitter and enamored with a young lady when discharged. However, the Board found that these factors were not sufficient to warrant relief in your case given your misconduct. In this regard, the Board concluded that your two NJPs and

lengthy period of UA outweighed your desire to upgrade your discharge. The Board felt that you received the benefit of your bargain with the Marine Corps when your request for separation in lieu of court-martial was granted, and that you should not be allowed to upgrade your characterization of service retrospectively. In regard to your assertion, the Board felt that your record clearly reflected your willful misconduct and demonstrated you were unfit for further service. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,



Executive Director