



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

[REDACTED]
Docket No: 6731-16
OCT 10 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 12 July 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, relevant portions of your naval record and applicable statutes, regulations and policies.

You enlisted in the Marine Corps and began a period of active duty on 14 January 1970. You served for about 11 months without disciplinary incident, but during the period from 7 December 1970 to 17 May 1972, you received nonjudicial punishment (NJP), were convicted by special court-martial and civil court. Your offenses were grand larceny, unauthorized absence (UA) from your unit for 112 days and failure to go to your appointed place of duty.

On 28 September 1972, you made a written request for discharge for the good of the service to avoid trial by court-martial for a 46 day period of UA from your unit and disobeying a lawful order from a commissioned officer. 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 the commanding officer directed your other than honorable (OTH) discharge. 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 October 1972, you were discharged under OTH conditions.

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 post service achievements and your contention that you were young and very naïve to the ways of the world. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in an NJP, an SPCM, a civil conviction, periods of UA totaling more than five months, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and should not be permitted to change it now. In regard to your contention that your misconduct was the result of your youth, 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