



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

[REDACTED]
Docket No: 7230-16
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 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 5 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 Navy and began a period of active duty on 25 July 1974. You served for ten months without disciplinary incident, but during the period from 16 May 1975 to 22 March 1977, you received nonjudicial punishment (NJP) on two occasions. Your offenses were unauthorized absence (UA) from your unit for periods totaling 19 days and missing ship's movement. On 25 March 1977 you were convicted by special court-martial (SPCM) of willfully damaging government property, theft of government property, unlawful entry into the ship's store, UA from your unit and wrongful possession of marijuana. The sentence imposed was confinement, a forfeiture of pay, reduction in rate, and a bad conduct discharge (BCD). The BCD was suspended for the period of confinement and six months thereafter, at which time the BCD would be remitted unless there was further misconduct. On 26 June 1977, you were UA from your unit until you were apprehended by civil authorities on 18 September 1977, a period of 84 days. Your BCD was reinstated and on 25 January 1978, you received the BCD after appellate review was complete.

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 conduct and desire to have the opportunity to join your fellow Veterans with a status of good standing. The Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in two NJPs, an SPCM, and periods of UA totaling over three months. Further, the Board noted that you were given an opportunity to earn a better characterization of service when the BCD you received at court-martial was suspended, but failed to do so as evidenced by your continued misconduct. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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