



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

[REDACTED]
Docket No: 7244-16

OCT 29 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 30 August 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 and began a period of active duty on 5 February 1975. You served for two years without disciplinary incident, but during the period from 8 February 1977 to 19 September 1977, you received nonjudicial punishment (NJP) and were convicted by two special court martial (SPCM). Your offenses were unauthorized absence (UA) from your unit for periods totaling 241 days. About two months later on 16 November 1977, you were again convicted by SPCM of failure to go to your appointed place of duty and a two day period of UA. The sentence imposed was a bad conduct discharge (BCD). On 13 April 1979, you received a BCD.

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 to receive Department of Veterans Affairs (DVA) benefits and your contention that you had a stroke or nerve problem that caused half of your body to lose feeling and you still struggle with this condition. The Board noted that you did not provide any evidence to support your contention and your service record did not reveal any medical condition to support your

contention. 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 and three SPCMs. Accordingly, your application has been denied.

In regard to desire to receive DVA benefits, the Board believes that under current regulations you may be eligible for veterans' benefits which accrued during your service. Whether or not you are eligible for benefits is a matter under the cognizance DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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