



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

[REDACTED]
Docket No: 7292-16

SEP 24 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 12 June 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 began a period of active duty Navy on 20 June 1960. You served nearly a year without disciplinary incident. On 5 July 1961, at summary court martial proceedings, you were found guilty of missing movement and unauthorized absence (UA). You receive two NJPs on 16 April 1962 (UA), and 9 May 1962 (failure to obey a lawful order and insubordinate conduct toward an NCO). You were found guilty at a second summary court martial on 23 June 1962, for a period of UA lasting approximately 3 hours and 55 minutes. On 15 January 1963, at special court martial proceedings, you were found guilty of a period of UA and breaking arrest. The Court sentenced you in part to a bad conduct discharge (BCD). You were discharged with a BCD on 6 June 1963.

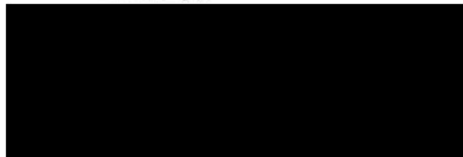
After careful and conscientious consideration of the entire record, The Board found the evidence submitted was insufficient to establish the existence of probable material or injustice. The Board considered your request for the removal of a violation of UCMJ, Article 95 from your record. When making its determination, the Board noted that you state that your application for a concealed handgun license was denied based on Case [REDACTED] in which you were found guilty

before a special court martial of violating Article 95. You state that you were unaware that the court martial charge and conviction was on your record at all and would like it expunged.

The Board, in its review of your entire record and application, carefully weighed all applicable factors. The Board noted that it does not have the authority to change the findings of special court-martials. The Board has the authority to grant clemency on the sentence, but it is not authorized to change judicial findings. You were found guilty of violating Article 95 (breaking arrest on 26 November 1962), at a special court martial held on 15 January 1963. Since the Board does not have the authority to change the guilty findings from that special court martial, 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 consider your case for clemency if you submit 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