



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

[REDACTED]  
Docket No: 7888-16

NOV 20 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 4 October 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 11 March 1975. You served for 11 months without disciplinary incident, but during the period from 20 February 1976 to 1 July 1976 you received nonjudicial punishment (NJP) on three occasions and were convicted by summary court-martial (SCM). Your offenses were failure to obey a lawful order from a noncommissioned officer, speaking provoking words and gestures, assault, failure to obey a written order and unauthorized absence (UA) from your unit for periods totaling five days. On 6 August 1976 you were released from active duty in compliance with the Expeditious Discharge Program. You were discharged under honorable conditions based on your conduct mark average.

Characterization of service is based in part on conduct marks assigned on a periodic basis. Your conduct mark average was 3.8. At the time of your service, a conduct mark average of 4.0 was required for a fully 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, in its review of your entire record and application, carefully weighed all potentially mitigating factors and your concern about having trouble getting benefits and would like your discharge to read honorable. The Board concluded these factors were not sufficient to warrant relief in your case because of your misconduct that resulted in three NJPs, an SCM and failure to attain the required conduct average. Regarding your concern about eligibility for healthcare whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of DVA concerning your right to apply for benefits. 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

[REDACTED]  
Executive Director