



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


[REDACTED]
Docket No: 8099-16
NOV 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, 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 18 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, 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 29 March 1974. You served for about nine months without disciplinary incident, but during the period from 1 January 1975 to 29 April 1977, you received nonjudicial punishment (NJP) on four occasions. Your offenses were sleeping on post, failure to obey a lawful written order and dereliction in the performance of duties. You were reported to be in an unauthorized absence (UA) status from your unit from 1 May 1977 to 15 May 1977, a period of 15 days and again from 16 June 1977 to 24 July 1977, periods totaling 52 days. On 8 August 1977, you made a written request for discharge for the good of the service to avoid trial by court-martial for the aforementioned periods of UA and breaking restriction. 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 23 August 1977, you were discharged under OTH conditions.


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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 contention that you made a significant mistake in going UA, but you believe that otherwise you did exactly what you were supposed to do and on the whole served the country honorably. 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 four NJPs, periods of UA totaling nearly two 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. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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