



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

[REDACTED]
Docket No. 769-17

JAN 04 2018

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 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 case on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 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 22 March 1994. You served for three years without disciplinary incident, but on 18 June 1997 you were found guilty at Special Court-Martial for violating Uniform Code of Military Justice (UCMJ), Article 123(a) (Forgery) for wrongfully uttering checks and Article 121 (Larceny) for wrongfully destroying mail located in the Commanding Officer's inbox. You were awarded four months confinement, reduction in rank to E1, forfeitures, and a Bad Conduct Discharge (BCD). Due to a pretrial agreement, your BCD was suspended. On 5 November 1997, you received Notice of Administrative Separation Processing, whereby you acknowledged that you were being discharged with a General (GEN) characterization of service. Due to your misconduct, you were separated from the Navy on 23 December 1997 with a GEN characterization of service and assigned a reentry code of RE-4.

After careful and conscientious consideration of the entire record, the Board found that 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, such as your post-service conduct, your remorse, and your desire to receive benefits for education and to care for your child. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct. Punitive discharges are authorized punishments of courts-martial and can only be

awarded as an approved court-martial sentence pursuant to a conviction for a violation of the UCMJ. A Bad Conduct Discharge can be ordered by a special court-martial, as it was in your case, as punishment for an offense less serious than one for which a dishonorable discharge could be given. The pretrial agreement in your case gave you protection from receiving a BCD. You were, however, subsequently notified of your administrative discharge with a GEN characterization of service, which indicates that the quality of the member's service has been honest and faithful; however, significant negative aspects of the member's conduct or performance of duty outweighed positive aspects of the member's service record. The Board felt that there was insufficient evidence to support changing your GEN characterization to the more favorable characterization of Honorable. 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