



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

[REDACTED]
Docket No: 4993-17

DEC 07 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.

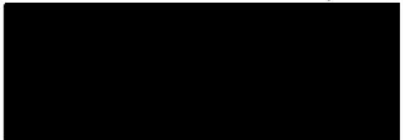
Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 September 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 14 June 2000. On 27 July 2001, you were counseled for failure to report to your appointed place of duty. On 28 September 2001, you were counseled for failure to maintain gear issued to you. On 2 November 2001, you were convicted by Summary Court-Martial (SCM) for failure to obey a lawful order. On 20 November 2001, you received nonjudicial punishment (NJP) for an unauthorized absence. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. After you waived your procedural rights, your commanding officer recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to pattern of misconduct. The separation authority approved this recommendation and directed you be discharged under OTH conditions. On 12 February 2002, you were so discharged. The Naval Discharge Review Board (NDRB) subsequently upgraded your OTH discharge to a general, under honorable conditions, discharge and changed your narrative reason for separation to Secretarial Authority.

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 application, carefully weighed all potentially mitigating factors and your desire to upgrade your discharge. Additionally, the Board considered your contention that you have been a productive citizen despite not receiving the title and benefits due to you. The Board concluded these factors were not sufficient to warrant relief in your case given the documented negative aspects of your service, to include counseling, retention warnings, and NJP and your average proficiency/conduct marks of 4.0/3.8. The Board also noted that the record shows you were notified of and waived your procedural right to present your case to an administrative separation board. In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service. Lastly, there is no provision in law or regulations that allows for re-characterization of a discharge due solely to the passage of time. 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