




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


Docket No. 5153-17
NOV 29 2017



Dear 

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 2 November 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.

A review of your record shows that you entered active duty with the Marine Corps in October 1965. In February 1966, you were placed on light duty as a result of pain related to your flat feet. In March 1966, an examination revealed a stress fracture to your foot but follow-up examinations report that your injury was healing as of September 1966. You were again placed on light duty on 30 September 1966 before you commenced a period of unauthorized absence in November 1966. Upon your return to the Marine Corps, you were convicted at a Special Court-Martial for your unauthorized absence. Upon your release from confinement in June 1967, you again went into another period of unauthorized absence that lasted until 9 October 1974. You returned to the Marine Corps and requested an undesirable discharge pursuant to the Presidential Proclamation of 1974. On 11 October 1974, you were discharged with an Other than Honorable characterization of service based on the Presidential Proclamation.

The Board carefully considered your arguments that you deserve a disability discharge and upgrade to your characterization of service. Unfortunately, the Board disagreed with your rationale for relief. First, the Board concluded the medical evidence does not support a finding that you were unfit for continued naval service due to your stress fracture in your foot. The examinations of your fracture on 9 May 1966 and 23 June 1966 showed that your foot was

healing properly. Additionally, the examination on 30 September 1966 determined you were fit to return to duty with some duty limitations. Finally, there is no evidence you were suffering from your foot fracture or any other disability upon your return to active duty on 6 April 1967 or when you commenced your last period of unauthorized absence on 15 June 1967. Second, even if there was evidence you were suffering from a qualifying disability that would have warranted referral to a medical board, your misconduct would have superseded any disability processing. Finally, the Board determined that the circumstances that led to your extended unauthorized absence was insufficient mitigation to warrant a change to your record. The Board noted in your Statement to Board for Alternate Service that you left the military because you "didn't believe in Vietnam." In the Board's opinion, this was aggravating evidence that led them to conclude that no injustice exists in your case. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application.

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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director