



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

[REDACTED]  
Docket No. 5595-17

DEC 15 2017

[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.

A review of your record shows that you entered active duty with the Marine Corps in March 1960. On 20 August 1963, non-judicial punishment was imposed on you for unauthorized absence. Non-judicial punishment was again imposed on you on 15 October 1963 for absence from your appointed place of duty. You were then convicted by a Summary Court-Martial for unauthorized absence on 18 November 1963 before another non-judicial punishment was imposed on you for being absent from your appointed place of duty on 19 February 1964. Your record also shows you were convicted by a Special Court-Martial on 16 December 1963 for false official statement that was later dismissed by the General Court-Martial Convening Authority after it was determined you were questioned and gave an incriminating statement without the benefit of your Uniform Code of Military Justice Article 31b rights warning. In the meantime, you were diagnosed with right knee degenerative joint disease and referred to the Physical Evaluation Board (PEB) on 8 November 1963. The PEB found you unfit for continued naval service on 13 April 1964 and recommended your discharge for your physical disability. You were discharged on 4 May 1964 with a General characterization of service based on your final trait averages of 3.7 conduct and 3.6 proficiency.

The Board carefully considered your arguments that you deserve an Honorable characterization of service since you were told your characterization of service would be upgraded automatically after six months. Unfortunately, the Board disagreed with your rationale for relief. Marine Corps regulations allow for the issuance of a General characterization of service if a member's service has been honest and faithful but significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record. The regulations go on to state that failure to achieve a conduct trait average of 4.0 is evidence of significant negative aspects that outweigh all but the most meritorious aspects of a military record. The Board noted that you earned a 3.7 conduct trait average for your enlistment which met the Marine Corps' standard for a presumption that negative aspects of your service outweighed all but the most meritorious aspects of your military record. Additionally, the Board considered your history of misconduct that included three non-judicial punishments and a court-martial conviction in your last year of service. In the Board's opinion, these two factors were conclusive evidence that significant aspects of your military service outweighed the positive. Despite over three years of relatively positive performance from March 1960 through August 1963, the Board felt your litany of misconduct that led the command to formally discipline you from August 1963 through 19 February 1964 more than offset the positive nature of your prior performance. In addition, the Board noted that you earned several sub 4.0 conduct marks during that initial three year period of enlistment. This fact led them to conclude that you were likely involved with conduct issues prior to the Command's decision to impose administrative and court-martial punishment on you. Finally, the Board is unaware of any regulation or policy that mandates the automatic upgrade of a characterization of service six months after a member is discharged. Considering these findings as a whole, the Board was able to conclusively decide that your military service did not meet the criteria for an Honorable characterization of service and you were appropriately issued a General characterization of service that was consistent guidelines contained in service regulations. 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,



Executive Director