Docket No: 6397-17
JAN C 3 2019

Dear ███████

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. 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. Consequently, your application has been denied.

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 17 October 2018. 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.
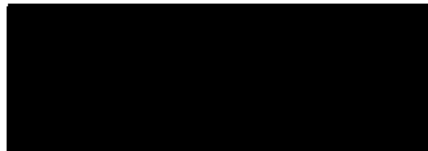
You enlisted in the Marine Corps and began a period of active duty on 22 July 1977. You served for 10 months without disciplinary incident, but on 11 May 1978, you were convicted by summary court-martial (SCM) of two periods of unauthorized absence (UA) totaling 27 days. On 31 May 1978, you received nonjudicial punishment (NJP) for failing to go to your appointed place of duty and disobeying lawful orders. Although the Board lacked your entire service record book (SRB) it appears from the SRB entries before the Board that you were subsequently involuntarily processed for separation by reason of convenience of the government. In connection with this processing, you would have acknowledged the separation action, and the separation authority would have approved a recommendation for separation. The record shows that on 12 June 1978, you were discharged under honorable conditions.

Character of service is based, in part, on conduct and overall trait averages, which are computed from marks assigned during periodic evaluations. Your conduct average was 3.0. An average of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board carefully weighed all potentially mitigating factors, including your contention that, because the Marine Corps discharged you without explanation and for no reason, your characterization should be changed to honorable. The Board concluded, however, that these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct, which resulted in an NJP and a SCM conviction in a one-month period, and your failure to attain the required average in conduct. In regard to your contention, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your allegation that your discharge was for no reason is unsupported in the record or by submission of documentation and thus failed to overcome that presumption. The Board in its review discerned no impropriety or inequity in the discharge.

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