



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

[REDACTED]  
Docket No: 6510-17

JAN 03 2019

[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. 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. 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 27 August 74. You served for about nine months without disciplinary incident, but during the period from 23 May 1975 to 17 September 1975, you received nonjudicial punishment (NJP) on three occasions and were convicted by summary court-martial (SCM). Your offenses were unauthorized absence (UA) from your unit for periods totaling 89 days and failure to obey a lawful order. On 3 February 1976, you made a written request for discharge for the good of the service to avoid trial by court-martial for periods of UA totaling 197 days. Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was

approved, and the commanding officer directed your other than honorable (OTH) discharge. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 24 February 1976, you were discharged under OTH conditions.

The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and your youth and immaturity at the time of your misconduct, as well as your contentions that you were under stress, your records were incomplete and not signed, and your periods of UA were a result of personal and family matters. The Board, however, concluded that these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct (periods of UA lasting more than eight months), which resulted in three NJPs and a SCM conviction, as well as your request for discharge for the good of the service to avoid trial.

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. In regard to your contentions, the Board considered your youth and immaturity as factors in your behavior, but concluded that the severity of your misconduct outweighed your current desire to upgrade your discharge. Further, the Board was sympathetic to your personal and family distress, but noted that there was nothing in your record—and you did not submit any supporting documentation—to show that your personal and family problems could not be resolved through standard military channels. The Board in its review discerned no impropriety or inequity in the discharge.

Public Law 112-154, Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, requires the Department of Veterans Affairs (DVA) to provide health care to Veterans with one or more of 15 specified illnesses or conditions. You should contact the nearest office of the DVA concerning your right to apply for benefits or appeal an earlier unfavorable determination.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. 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 the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

[REDACTED]

Executive Director