



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

[REDACTED]
Docket No: 6719-17

DEC 13 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, of the 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 25 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 Corp and began a period of active duty on 13 August 1970. On 24 August 1970 and 3 March 1971, you received nonjudicial punishments (NJP) for two periods of unauthorized absence (UA) totaling 32 days. On 29 November 1972, you were convicted by special court-martial (SPCM) of three specifications UA totaling 443 days. You were sentenced to a period of confinement at hard labor and a bad conduct discharge (BCD). On 18 January 1973, you waived your right to request restoration to full duty, and requested that the your BCD be executed stating "I don't want to be in the Marine Corps and I want to get out as soon as possible and can be home taking care of and providing for my family." On 23 February 1973, you received a third NJP for three days of UA. On 4 January 1974, you were discharged with a BCD. On 15 June 1976, your initial discharge was changed and you were awarded a clemency discharge (CD) pursuant to Presidential Proclamation 4313. You were issued a DD215 reflecting your clemency discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, including your youth, record of service desire to have your CD change to honorable and contention your recruiter used deceptive tactics and lies to deceive you into enlisting into the Marine Corps because of your age, you were still grieving over the loss of your

mother, and he lied to you and your father about accepting a four year enlistment. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your misconduct which result in three NJP's, one of which you received after you were convicted of a lengthy period of UA and pending BCD. Further, the Board noted that you received a pardon and a CD. The CD was meant to be a neutral discharge, which replaced your punitive discharge and restored important rights. The Clemency Discharge was meant to be a neutral discharge. This recharacterization does not entitle you to benefits administered by the Department of Veterans' Affairs (DVA). The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter 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 solid black rectangular box used to redact the signature of the Executive Director.

Executive Director