



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

[REDACTED]
Docket No: 7497-17
MAY 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 22 January 2019. 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 Corps on 8 July 1968. On 30 January 1969, you were convicted by summary court-martial (SCM) of unauthorized absence (UA) totaling 27 days. On 25 July 1969, you were convicted by general court-martial (GCM) of larceny from another Marine. You were sentenced to forfeiture of pay, confinement for six months, and a bad-conduct discharge (BCD). After the BCD was approved at all levels of review, you were discharged on 13 March 1970.

The Board carefully weighed all potentially mitigating factors, such as your youth and immaturity at the time of your misconduct, your remorse, and your desire to upgrade your discharge, as well as your contentions that you never received a discharge decision and need Department of Veterans Affairs (DVA) benefits. The Board, however, found that these factors were not sufficient to warrant relief given your repeated and serious misconduct, which resulted in your conviction by a SCM and GCM.

In regard to your contention that you never received a discharge decision, the Board noted that the record contains documented evidence to the contrary. The record clearly shows that a GCM found you and sentenced you to be discharged with a BCD. The Board also noted that you failed to exercise your right to petition the U.S. Court of Military Appeals for a further review of your case.

In regard to your contention that you need DVA benefits, whether or not you are eligible for benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits. If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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 matters. New matters are those not previously presented to or 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