



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

[REDACTED]
Docket No: 7785-17
APR 30 2019

[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. 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 15 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.

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.

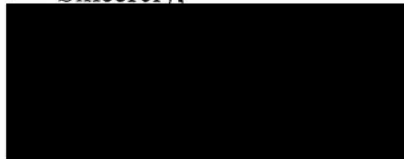
You enlisted in the Marine Corps on 14 September 1946. On 24 January 1947, you were convicted by summary court-martial (SCM) of burglary. You were sentenced to forfeiture of pay and a bad-conduct discharge (BCD). After the BCD was approved at all levels of review, you were discharged on 8 May 1947.

The Board carefully weighed all potentially mitigating factors, such as your post-service conduct, your desire to upgrade your discharge and contention that your discharge should be upgraded because you retired from the US Army as a Sargent Major (E-9).

However, the Board found that these factors were not sufficient to warrant relief given your SCM conviction. In regard to your contention that your discharge should be upgraded because you retired from the US Army as a Sargent Major (E-9), the Board commends you for your post service conduct, however it does not excuse your conduct while enlisted in the Marine Corps or the basis for your discharge. The Board also noted that the conduct or performance of duty reflected by a single incident of misconduct may provide the basis of characterization of service. Unfortunately, your misconduct resulted in a BCD.

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