



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

[REDACTED]
Docket No: 7925-17

APR 29 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.

You enlisted in the Marine Corps on 6 September 1988. On 26 July 1991, you received non-judicial punishment (NJP) for wrongful apprehension of a car without permission. On 11 November 1991, you were convicted by civil authorities of first degree burglary and armed robbery (disposition was not listed). Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After waiving your procedural rights, your commanding officer (CO) recommended an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 9 March 1992, you were discharged.

The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and contentions that your discharge should be upgraded because you served almost four years in the Marine Corps, deployed to Desert Shield and Desert Storm, and you have made important changes in your life. However, the Board concluded that these factors

were not sufficient to warrant relief in your case given the seriousness of your misconduct resulting in NJP and charges from the civil authorities.

In regard to your contention that your discharge should be upgraded because you served almost four years in the Marine Corps and deployed to Desert Shield and Desert Storm, the Board noted that, although a Marine's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by a single incident of misconduct may provide the basis of characterization of service. The Board also noted that the record shows that you were notified of and waived your procedural right to present your case to an administrative board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention or a more favorable characterization of service.

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,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director