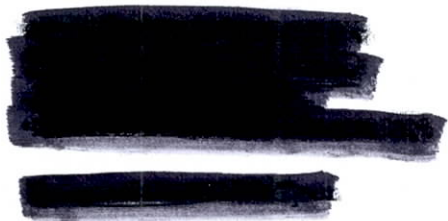




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 1518-12
27 November 2012



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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 November 2012. 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, your naval record, and applicable statutes, regulations, and policies.

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.

You enlisted in the Navy on 29 April 1977 and immediately began a period of active duty. You served without disciplinary infraction until 27 March 1978, when you began a period of unauthorized absence (UA) that was not terminated until 27 June 1979. During this period of UA you were declared a deserter, however, only the charge of UA was referred for court-martial.

On 7 August 1979 you were convicted by summary court-martial (SCM) of a 457 day period of UA and sentenced to confinement at hard labor for 25 days, a \$200 forfeiture of pay, and reduction to paygrade E-1. Shortly thereafter, on 16 August 1979, you were processed for an administrative separation action by reason of misconduct. After waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB), on 28 August 1979, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to the prolonged period of UA.

Subsequently, the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 4 September 1979, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and statement of claim/affidavit provided in support of your request. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your lengthy period of UA from the Navy. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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,



BRIAN J. GEORGE
Head, Discharge Review Section