



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

TLG
Docket No: 7812-14
20 August 2015

5 U.S.C. 552(b) (6)

Dear 5 U.S.C.

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 14 August 2015. 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 28 February 1975, and serve for about six months without incident. However, during the period from 25 September 1975 to 9 March 1977, you received three nonjudicial punishments (NJP) for eight days of unauthorized absence (UA), absence from your appointed place of duty, possession of marijuana, and failure to report the possession or use of marijuana by another person. On 10 April 1979, while in the Navy reserve, you received NJP for being absence from appointed place of duty and reporting to drill in civilian clothes. On 18 June 1977, you were discharge from active duty into the U. S. Naval Reserve under honorable conditions.

On 14 January 1981, upon expiration of your enlistment service obligation, you received a general discharge from the Naval Reserve. At that time you were not recommended for retention or reenlistment.

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 assertion that your post service diagnosed post-traumatic stress disorder (PTSD) contributed to your misconduct while on active duty. Nevertheless, the Board concluded that these factors were not sufficient to warrant relief given your misconduct. In this regard, the Board concluded that your record of multiple infractions/offenses, which resulted in four NJPs, outweighed your desire to upgrade your discharge. Regarding your assertion of suffering from PTSD, the Board noted that your misconduct occurred prior to your diagnosis of PTSD.

The purpose of the Secretary of Defense memorandum on PTSD is to ease the process for veterans seeking to upgrade an "other than honorable" discharge based on misconduct with a PTSD nexus and assist the Boards in reaching fair and consistent results. The memorandum describes the difficulty veterans face on "upgrading their discharges based on claims of previously unrecognized" PTSD. The Secretary explains that since PTSD was not previously recognized as a diagnosis at the time of service for many veterans, and diagnoses were often not made until after service was completed, veterans were constrained in their arguments that PTSD should be considered in mitigation for misconduct committed or were unable to establish a nexus between PTSD and the misconduct underlying their discharge. The policy specifically covers veterans who received other than honorable (OTH) discharges. You received a general discharge under honorable conditions; a characterization of service that is greater than an OTH discharge. Accordingly, the Board determined that your application was not covered by the guidance. In the end, the Board closely examined both the language and intent of the policy memorandum. 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 within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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,

5 U.S.C. 552(b) (6)

ROBERT J. O'NEILL
Executive Director