



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

ES
Docket No: 10758-14
4 June 2015

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

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

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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 May 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 Marine Corps and began a period of active duty on 28 June 1986. You served for about five years and three months without disciplinary incident, but on 23 October 1991, you received nonjudicial punishment (NJP) for attempting to develop a nonprofessional relationship with a recruit and making a false official statement. On 28 October 1992, you were convicted by general court-martial (GCM), of failure to obey order or regulation, carnal knowledge with a female under sixteen years of age and obstructing justice. You were adjudged confinement, forfeiture of pay and allowances, reduction to paygrade E-1, and bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 9 August 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of satisfactory service, desire to upgrade your discharge and your assertion of post-traumatic stress disorder. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant an upgrade of your discharge given the severity of your misconduct which resulted in NJP and GCM.

Also, your assertion that you suffered from PTSD was fully and carefully considered by the Board in light of the Secretary of Defense's Memorandum, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder" of September 3, 2014. In accordance with the guidance, the Board gave liberal and special consideration to treatment record documentation of PTSD symptoms and DVA determinations of the existence of service connected PTSD. In addition, the Board provided liberal consideration to finding PTSD where a service record substantiated the existence of PTSD symptoms or when a civilian provider diagnosed PTSD. After applying these guidelines to the evidence in the case, the Board was not able to substantiate the existence of PTSD in your case. 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