



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

TJR
Docket No: 621-14
12 February 2015

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

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

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 3 February 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 11 December 1989. You served without disciplinary incident until 30 September 1993, when you received nonjudicial punishment (NJP) for drunk and disorderly conduct. About six months later, on 18 March 1994, you received NJP for wrongful use of cocaine.

Subsequently, you were processed for an administrative separation by reason of misconduct due to drug abuse. After waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB), your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 26 May 1994, 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 assertions of needing medical care and suffering from Post-Traumatic Stress Disorder (PTSD). Nevertheless, the Board concluded these factors were not

sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Accordingly, your application has been denied.

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 Department of Veteran Affairs 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.

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 within one year from the date of the Board's decision. 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