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

EGA
Docket No: 1105-15
30 July 2015

5 U.S.C 552(b) (6)
[redacted]

Dear 5 U.S.C 552(b) (6)
[redacted]

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.

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 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.

In regard to your request for a personal appearance, be advised that Board regulations state personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of the record.

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 accepted a commission in the Marine Corps and began a period of active duty on 3 April 1998. You served without disciplinary incident until 10 December 1999, when you received a formal

counseling for failure to pay just debts and failure to be forthright with information when questioned by your chain of command. On 15 June 2007, a command investigation was conducted and you were charged with several violations of the Uniform Code of Military Justice (UCMJ). On 25 September 2007, you submitted a request for resignation for the good of service and on 26 September 2007, you received nonjudicial punishment (NJP) for disobeying a superior commissioned officer, failure to obey regulations, false official statement, larceny, and fraud. As a result, you received a punitive letter of reprimand and your request for resignation was approved. On 6 December 2007, you were discharged with an other than honorable characterization of service due to unacceptable conduct.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your character of service and assertion of post-traumatic stress disorder (PTSD) as a reason for your misconduct. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case, given the seriousness of your misconduct and your voluntary request for resignation for good of service. Accordingly, your application has been denied.

Your assertion of PTSD was 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. Although the Board was able to substantiate your claims of PTSD at the time of your misconduct, it was their opinion that the seriousness of your misconduct outweighed any mitigation that would be offered by the PTSD.

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