



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

[REDACTED]
Docket No. 2929-16

FEB 13 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 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 case on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 December 2016. 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.


A review of your record shows that you entered active duty with the Marine Corps in July 1979. In your short period of active service, due to various incidents of misconduct, non-judicial punishment was imposed on your five times and you were convicted by two courts-martial. After your final court-martial conviction on 25 March 1982, you were notified of your pending administrative separation processing due to misconduct. After you acknowledged your rights, your separation was approved by the General Court-Martial Convening Authority on 14 June 1982 after a legal review. You were then discharged on 15 June 1982 with an Other than Honorable discharge. In 1984, you were diagnosed with Crohn's Disease which resulted in surgeries to treat your condition. On 7 April 1995, the Naval Discharge Review Board denied your request for an upgrade to your characterization of service.

The Board carefully considered your arguments that you deserve a change to your narrative reason for separation to disability due to your Crohn's Disease. You assert that your condition prevented you from performing your duties and led to your separation. Unfortunately, the Board disagreed with your rationale for relief. First, the Board determined you were properly processed for misconduct based on your long history of misconduct and adjudications that punished your actions. The Board concluded that there was no evidence that showed you were not mentally responsible for your actions that led to your misconduct. Second, the Board was unable to find a nexus between your Crohn's Disease diagnosis and your military service. So the Board was

unable to conclude that you were unfit for continued naval service due to a disability. Finally, even if there was evidence of a service connection and unfitness, since you were properly processed for misconduct, any potential disability processing would have been superseded by your misconduct processing. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application. The names and votes of the members of the panel will be furnished upon request.

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 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 this 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,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director