



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

[REDACTED]  
Docket No. 3079-16  
JUN 11 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 U.S.C. §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 March 2017. 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. The advisory opinion provided in BUMED memo 5740 Ser M34/16UM36059 received by the Board 10 January 2017 was sent to you on 6 February 2017 for an opportunity to comment prior to being considered by the Board. The Board considered your response to the advisory opinion you submitted via an email dated 13 March 2017.

You enlisted in the Marine Corps and began a period of active duty on 2 December 1986. On 5 April 1992, you were arrested by civilian authorities and charged with manslaughter. On 4 November 1992, you were found guilty in civilian court of manslaughter and awarded 6 years in [REDACTED] state prison. As a result of the foregoing, administrative discharge action was initiated. The separation authority directed that you be separated with an Other Than Honorable (OTH) characterization of service by reason of conviction of a serious offense. On 11 December 1992, you were discharged with an OTH characterization of service.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as your assertion of Post-Traumatic Stress Disorder (PTSD) as a reason for your misconduct. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Specifically, the Board noted that although you have a current PTSD diagnosis, there is no evidence you suffered from these conditions prior to the event that led to your OTH discharge.

The Board lacked sufficient detail to reconstruct your state of mind at the time of your offense. The Board further concluded that the seriousness of your misconduct outweighed any mitigation that would be offered by the PTSD. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. 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,

[REDACTED]

Executive Director