



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

[REDACTED]  
Docket No. 4374-16  
MAY 22 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 27 April 2017. 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. Additionally, the Board considered the advisory opinion contained in Director, Secretary of the Navy Council of Review Boards letter 5220 CORB: 002 of 21 February 2017; a copy of which was provided to you for comment.

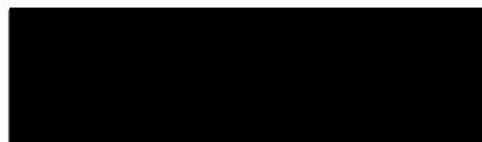
A review of your record shows that you entered active duty with the Marine Corps in July 1997. You were injured in a Vehicle Borne Improvised Explosive Device attack on 15 July 2004 and earned a Purple Heart. On 28 August 2005, you were discharged at the completion of your required active service and issued a RE-1A reentry code. On 19 September 2005, the Department of Veterans Affairs issued you a combined 80% disability rating for a number of service connected disabilities including post-traumatic stress disorder (PTSD).

The Board carefully considered your arguments that you should have been referred to a medical board and placed on the Permanent Disability Retirement List. You assert that you were suffering from PTSD and not given the opportunity to seek a medical retirement. Unfortunately, the Board disagreed with your rationale for relief. In making their findings, the Board substantially concurred with the advisory opinion contained in Director, Secretary of the Navy Council of Review Boards letter 5220 CORB: 002 of 21 February 2017. Specifically, the Board lacked evidence to support a finding of unfitness for continued naval service due to PTSD. As pointed out in the advisory opinion, there was a lack of evidence you were treated for PTSD after being diagnosed with the condition; including after your discharge. This led the Board to

conclude that insufficient evidence exists to support a finding of unfitness based on PTSD. Regarding your VA rating for PTSD, the Board did not find that dispositive on the issue of fitness for duty. A service member must be unfit to perform the duties of office, grade, rank or rating because of disease or injury incurred or aggravated while entitled to basic pay. Each case is considered by relating the nature and degree of physical disability of the member to the requirements and duties that member may reasonably be expected to perform in his or her office, grade, rank or rating. So the mere presence of a medical condition or specific correspondence of any manifestations thereof to an entry indicating a disability rating contained in the VA Schedule for Rating Disabilities is insufficient to warrant either a finding of unfitness for continued naval service or a specific disability rating by the Physical Evaluation Board in the absence of demonstrated duty performance impairment of sufficient magnitude as to render a Service member unfit for continued naval service. By contrast, eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. As pointed out by the advisory opinion, there was a lack of objective evidence that your duty performance was inadequate at the time of separation due to a qualifying disability. This led the Board to conclude that your reentry code of RE-1A was supported by evidence and you were properly determined to be eligible for reenlistment. 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 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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director