



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

[REDACTED]
Docket No: 7380-16/

9402-14
NOV 30 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your latest reconsideration request dated 15 August 2016. You previously petitioned the Board and were advised in our letter that your applications had been disapproved. Your case was reconsidered in accordance with Board of Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335.Supp.2d 48 (D.D.C 2004).

Accordingly, your request has been carefully examined by a three-member panel of the Board for Correction of Naval Records, sitting in executive session on 12 September 2017. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your application, any material submitted in support of your application, an Advisor Opinion (AO) from the Chief, Bureau of Medicine and Surgery dated 9 June 2017 and your rebuttal to the AO.

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. The Board carefully weighed all potentially mitigating factors, such as the psychological evaluation from [REDACTED] PhD, HSP, your desire to upgrade your discharge and contention that you suffered from post-traumatic stress disorder (PTSD) during your time of service which might have mitigated the misconduct that caused your bad conduct discharge (BCD). However, the Board concluded that these factors were not sufficient to warrant relief given your misconduct. Specifically, your contention 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 Requested by Veterans Claiming Post Traumatic Stress Disorder" of 3 September 2014 and the "Clarifying Guidance to Military Discharge Review Board and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" memorandum of 25 August 2017.

In accordance with the guidance, the Board gave liberal and special consideration to your record. After applying these guidelines to the evidence in the case, the Board was not able to substantiate the existence of PTSD. The Board also noted that you provided a rebuttal to the AO supporting

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your claim of PTSD. However, the Board was unable to substantiate your claims of PTSD at the time of your misconduct and it was their opinion that the seriousness of your misconduct outweighed any mitigation that would have been offered by PTSD.

The Board believes that under current regulations you may be eligible for veterans' benefits. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. 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 the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

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,



Executive Director