



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

[REDACTED]
Docket No. 7614-16
NOV 29 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 October 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, relevant portions of your naval record and applicable statutes, regulations and policies. The advisory opinion provided in Senior Medical Advisor CORB letter 1910 CORB: 002 of 13 September 2017 and Director CORB letter 1910 CORB: 001 of 15 September 2017 was sent to you on 13 October 2017 for an opportunity to comment prior to being considered by the Board. A copy of this advisory opinion is again enclosed. Your response was received on 13 October 2017 and was included in the case file when presented to the Board.

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.

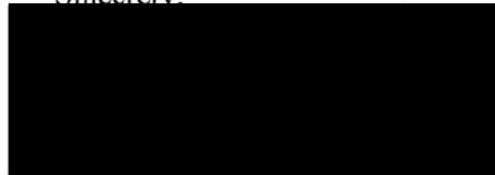
On 20 February 2011, you entered active duty in the United States Marine Corps. During your service, a mental health professional diagnosed you with adjustment disorder and anxiety. You were provided the opportunity to receive mental health treatment prior to your separation from the service on 23 January 2014 for "Condition, Not a Disability." Your period of service was characterized as Honorable and you received an RE-3C reentry code.

The Board carefully considered your argument that you should have received a disability separation or retirement due to your Department of Veteran's Affairs (VA) diagnosis of "major depressive disorder to include panic disorder, which established a 50% rating on 27 August 2014, retroactive back to 24 January 2014. You highlight that the VA states that your condition

“was/is at least as likely as not incurred in or caused by the service.” However, the Board did not agree with your rationale for relief. In order to be eligible for a disability retirement, a service member must be unfit for continued naval service due to a disability incurred on or aggravated by active duty service. Each case is considered by relating the nature and degree of the physical disability to the requirements and duties that member may reasonably be expected to perform in his or her office, grade, rank or rating. 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. Therefore the Board was not persuaded by the VA’s rating of your service connected disability conditions without additional evidence of unfitness for continued naval service. In making their findings, the Board substantially concurred with the advisory opinions contained in Senior Medical Advisor CORB ltr 1910 CORB: 002 of 13 September 2017 and Director CORB ltr 1910 CORB: 001 of 15 September 2017. Specifically, the Board found that the evidence did not support a finding that you were unfit for continued naval service due to a qualifying disability at the time of your discharge. The mental health evaluation performed just two weeks prior to your separation issued no mental health diagnosis and determined that you were “psychologically fit for duty.” Further, the Board highlighted that you admitted to fabricating your mental health symptoms during a medical review conducted at the time of your separation. The Board concluded that no error or injustice existed in your case and, 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,



Executive Director

