



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

[REDACTED]
Docket No. 7858-16

APR 24 2017

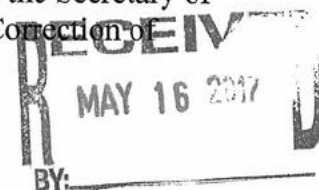
[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552. Your case was reconsidered in accordance with procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C. 2004). You were previously denied relief by the Board on 12 February 1997 and 29 September 2011.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 March 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. However, after careful and conscientious consideration of the entire record, the Board determined that while your request does contain new information not previously considered by the Board, it does not warrant relief. Accordingly, your request has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board carefully considered your arguments that you deserve a disability discharge due to a broken wrist that occurred while you were on active duty. Unfortunately, the Board disagreed with your rationale for relief. First, there was no evidence your wrist condition was unfitting at the time of your discharge. You were discharged almost 20 months after you broke your wrist and there was no evidence in your record that you did not fully recover from your condition. Second, you were processed for administrative separation for misconduct related to drug abuse. This misconduct processing would have superseded any disability processing even if there was evidence you were unfit for continued naval service due to a qualifying disability. Therefore, the Board determined that your narrative reason for separation is supported by the evidence.

Even though you did not request an upgrade to your characterization of service due to Post-traumatic Stress Disorder (PTSD), the Board examined your case in light of the Secretary of Defense's Memorandum "Supplemental Guidance to Military Boards for Correction of

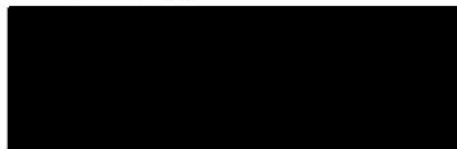


Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post-Traumatic Stress Disorder" of September 3, 2014. The memorandum provides supplemental guidance to assist these Boards in reaching fair and consistent results when considering whether medical or other evidence indicates PTSD may have contributed to or mitigated the circumstances of a veteran's discharge from the military. In reviewing a veterans request to change the characterization of service, the memorandum instructs Boards to give liberal consideration to service treatment or other records documenting symptoms now recognized as PTSD existed during the time of service. The Board noted that you presented medical evidence recorded by a Readjustment Coordinator that discusses symptoms possibly related to PTSD and personal statements of your post-war PTSD symptoms that you experienced. Despite no medical diagnosis of an actual PTSD condition, the Board provided liberal consideration of whether PTSD may have contributed to your drug abuse or mitigated your misconduct. After reviewing the evidence, the Board determined an upgrade to your characterization of service is not warranted despite the mitigation offered by the existence of PTSD. The primary reason for their decision is the fact you entered the Marine Corps with a drug waiver and, as a result, the Board did not find your drug use in 1992 out of character behavior influenced by your PTSD symptoms. Accordingly, the Board determined no error or injustice exists in your case.

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