



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

[REDACTED]
Docket No. 7951-16
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.

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 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.

A review of your record shows that you entered active duty with the Marine Corps in July 2006. In 2009, non-judicial punishment was imposed on you for multiple incidents of unauthorized absence due to failure to go to appointed places of duty and various orders violations. You were also convicted by a Summary Court Martial on 1 October 2009 for 28 days of unauthorized absence. These acts of misconduct led to your administrative separation for pattern of misconduct on 25 June 2010, issuance of a RE-4 reentry code, and an Other than Honorable characterization of service.

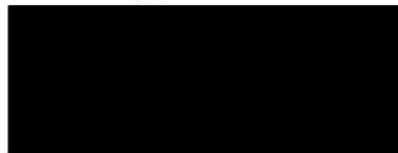
The Board carefully considered your arguments that you deserve a disability retirement and a reentry code change due to unspecified disabilities that existed at the time of your discharge. You assert that you require both in order to qualify for Department of Veterans Affairs benefits. Unfortunately, the Board disagreed with your rationale for relief. First, the Board found no evidence in your record to support a finding that you were unfit for continued naval service due to a disability at the time of your discharge. Your 21 June 2010 separation physical noted several medical conditions but stated you were cleared for full duty and medically eligible for separation. Second, even if there was sufficient evidence to support a finding of unfit for continued naval service due to a disability, the Board concluded you were not eligible for referral

to the Disability Evaluation System since you were processed for misconduct. Service regulations dictated misconduct separation processing supersede any disability processing. Based on the extensive misconduct in your record to support your discharge for misconduct, the Board concluded you were properly separated for misconduct. 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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