



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

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Docket No. 6925-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 27 January 2022. 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 Board carefully considered your request to reinstate your previously attained rank of sergeant. Specifically, you contend that since your characterization of service was upgraded to general, under honorable conditions, by a previous Board, your rank should be corrected and upgraded to sergeant. You further contend the Marine Corps should have offered you the help you needed but instead you were “convicted, confined, and demoted.”

The Board noted your previous request, Docket Number NR20200008877, was granted. Specifically, the previous Board, applying liberal consideration and relying upon a favorable advisory opinion, determined there was sufficient evidence to support a finding that your diagnosed Post-Traumatic Stress Disorder (PTSD) mitigated the conduct that led to your bad conduct discharge and concluded the requested upgrade to general, under honorable conditions, should be granted.

Due to the additional relief requested and new contention, the Board carefully reconsidered your request for relief. The Board, however, noted the previous Board determined your PTSD mitigated but did not excuse the conduct which resulted in your discharge, confinement, forfeiture of pay, and reduction in rank to E-1 at special court-martial. The Board considered

your contention the Marine Corps should have offered you help but determined there was insufficient evidence of an error or injustice in the special court-martial's decision to reduce your rank to E-1 and concluded your requested relief was not warranted.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

2/22/2022

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Executive Director

A horizontal black bar redacting the name of the Executive Director.