



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

Docket No: 3069-16
SEP 27 2016

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 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 application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 May 2016. 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, your naval record, and applicable statutes, regulations, and policies.

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.

You reenlisted in the Marine Corps and continued a period of active duty on 31 August 1991. You served without disciplinary incident until 4 March 1996, when you received nonjudicial punishment (NJP) for wrongful use of cocaine. Although not all of the documents are in your record, it appears that you were charged with another violation of the Uniform Code of Military Justice (UCMJ), because on 2 July 1996, you submitted a request for discharge in lieu of trial by court-martial. Your request was approved and, on 12 July 1996, you received an other than honorable (OTH) discharge in lieu of trial by court-martial.

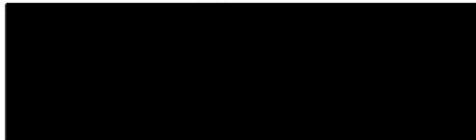
The Board, in its review of your application and record, although incomplete, carefully weighed all potentially mitigating factors, such as your desire to upgrade your characterization of service and your assertion of post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because no error or injustice was identified in your records and you submitted no evidence to support your claims of a PTSD diagnosis. The presumption of regularity of governmental affairs was applied by the Board in this case in the absence of a complete discharge package. In this regard, the Board noted that regulations required that individuals who request discharge for the good of the service to avoid trial by court-martial be advised by military counsel concerning the consequence of such a

request. Since your request for discharge in lieu of trial by court-martial was approved and executed, the Board presumed that the foregoing occurred in your case. Further, because you requested discharge in lieu of trial, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. Accordingly, your application has been denied.

Your assertion of PTSD was 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 Requests by Veterans Claiming Post-Traumatic Stress Disorder" of September 3, 2014 and the Principal Deputy Under Secretary of Defense Memorandum "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI)" of 24 February 2016. However, the Board was not persuaded that your assertion of PTSD was enough to outweigh the seriousness of your misconduct. As a result, the Board concluded that the seriousness of your misconduct outweighed any mitigation that would be offered by the PTSD.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matters not previously considered by the Board within one year from the date of the Board's decision. 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