



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

[REDACTED]
Docket No. 3231-16

JUN 11 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 25 May 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. In addition, the Board considered the advisory opinion contained in Director, Secretary of the Navy Council of Review Boards letter 5220 CORB: 002 of 28 March 2017; a copy which was provided to you for comment.

A review of your record shows you entered active duty with the Marine Corps in August 2006. You deployed to Iraq from August 2008 through March 2009 and completed a Post-Deployment Health Assessment. In 2014, you were placed on LIMDU for Post-Traumatic Stress Disorder (PTSD), Post-Concussive Syndrome, and chronic left abdominal pain but released from active duty on 25 October 2014 at the completion of your required active duty. On 26 October 2014, the Department of Veterans Affairs (VA) rated you for a number of service connected disability conditions.

The Board carefully considered your arguments that you deserve a disability retirement due to the conditions for which you were placed on LIMDU prior to your discharge and later rated by the VA. Unfortunately, the Board disagreed with your rationale for relief. In making their findings, the Board substantially concurred with the advisory opinion contained in Director, Secretary of the Navy Council of Review Boards letter 5220 CORB: 002 of 28 March 2017. Specifically, the Board concluded that it lacked sufficient evidence to support a finding that you were unfit for continued naval service prior to your discharge. As outlined in the advisory opinion, despite your multiple conditions for which you sought treatment, there was a lack of objective evidence that any of the conditions significantly impaired your duty performance as a motor transport operator at the time of your discharge. You were treated for incidents of TBI

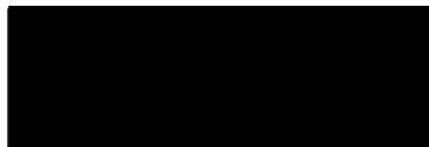
and PTSD that were reportedly incurred during your tours in Iraq and Afghanistan in 2009 and Jump School in 2010. However, a neurological assessment just prior to your discharge revealed that you did not meet the criteria for a PTSD and Cognitive Disorder Axis I diagnosis. Further, extensive neurological workups showed no etiology of symptoms. These facts, and the lack of evidence of an occupational impairment, led the Board to conclude that you likely would have been found fit for continued naval service had the Physical Evaluation Board examined your case. The fact the VA rated you so highly for a number of conditions did not convince the Board of your unfitness for continued naval service because 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.

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