



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

[REDACTED]
Docket No: 03460-16
APR 20 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your reconsideration request received on 19 April 2016. You previously petitioned the Board and were advised in our letter of 28 January 2009, that your application had been denied. Your case was reconsidered in accordance with Board of Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F.Supp.2d 48 (D.D.C. 2004).

Although your application was not filed in a timely manner, your application was submitted with a new basis for relief not previously considered and the Board found it in the interest of justice to consider this new assertion. In this regard, your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records on 13 January 2017. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your application and any material submitted in support of your application.


After careful and conscientious consideration of the entire record, including your statement about assistance due to psychological conditions, and your statement regarding the circumstances of your military service, the Board determined that the evidence was insufficient to establish the existence of probable material error or injustice. The Board found that your receipt of an other than honorable discharge characterization was warranted given your five nonjudicial punishments, to include the misconduct of missing ship's movement. A review of your recent application reveals that again your request must be denied. In this regard, the Board considered your personal statement and took particular note of the accident you suffered while at sea in the Indian Ocean. The Board also considered your assertion that you needed psychological help while you were serving in the Navy following the accident, and that you did not receive psychological care. The Board noted that you did not raise an issue of Post Traumatic Stress Disorder, but had you provided an assertion or medical diagnosis of PTSD, it would have been considered under the Secretary of Defense's current guidance. The Board concluded that based on the evidence available and in consideration of your new assertions, you did not establish that your other than honorable discharge characterization was erroneous or unjust.

The Board concluded that your misconduct as reflected in your service record, combined with your opportunity to appear before an administrative separation board, warranted the other than honorable characterization. The Board did not find that you provided evidence to support your assertion that your chain of command failed to provide you necessary mental health care for an in-service injury. Accordingly, your application has been denied.

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