



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

[REDACTED]
Docket No: 3480-16

OCT 30 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your latest reconsideration request dated 11 April 2016. Since the date of your original submission on 22 July 1998, you have submitted 15 separate requests, some with new evidence, some with previously submitted evidence, and many with handwritten regulations and court opinions you contend apply to your situation. Your subsequent petitions had previously been reviewed and denied reconsideration by the Executive Director but were not reviewed by the Board. Those submissions, along with your current case, were reconsidered in accordance with Board for Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F.Supp.2d 48 (D.D.C. 2004).

Your current request and previous submissions have been carefully examined by a three-member panel of the Board for Correction of Naval Records sitting in executive session on 31 August 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. In addition, the Board considered the advisory opinion (AO) furnished by the Bureau of Medicine and Surgery (BUMED), dated 11 July 2017, a copy of which was previously sent to you on 18 July 2017. See enclosure.

You presented as evidence new statements containing new contentions and handwritten reference material. Although this new evidence was not previously considered by the Board, the Board determined the seriousness of your misconduct while on active duty outweighed the mitigating evidence that you provided.

In deciding whether to grant relief, your assertion that you suffered from PTSD was fully and 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. The Board also considered your PTSD assertion in light of the Under Secretary of Defense's Memorandum "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans

for Modifications of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" dated 25 August 2017. The Board substantially concurred with BUMED's advisory opinion. The Board determined, even applying liberal consideration, there is insufficient evidence to support your contention that you had service-connected PTSD which contributed to your misconduct. Accordingly, your reconsideration request 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

Enclosure