



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

[REDACTED]
Docket No: 3535-16

SEP 29 2016

[REDACTED]
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 enlisted in the Marine Corps and began a period of active duty on 24 January 2006. You served without disciplinary incident until 22 January 2007, when you received nonjudicial punishment (NJP) for being absent from your appointed place of duty and two specifications of insubordinate conduct. You were counseled and notified of your deficiencies and advised of recommended corrective action and available assistance. You were warned that failure to adhere to the counseling/warning may be grounds for administrative separation action. On 24 May 2007, you received NJP for a three-month period of unauthorized absence that did not terminate until you were apprehended. In view of the foregoing, administrative discharge action was initiated. You were advised of your rights and you elected to waive your procedural rights. On 25 May 2007, your commanding officer recommended an other than honorable (OTH) discharge and forwarded your case. The discharge authority concurred with the recommendation and directed an OTH discharge by reason of misconduct due to the commission of a serious offense. On 13 June 2007, you were so discharged.

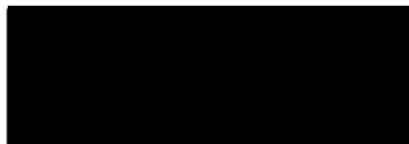
The Board, in its review of your application and record, carefully weighed all potentially mitigating factors, such as your desire to upgrade your characterization of service. The Board also considered your assertion of post-traumatic stress disorder (PTSD) and that you should

have received a medical discharge. 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. Further, applicable regulations state, in part, that even if an individual is processed for separation by reason of a medical or mental condition, if the individual meets the requirements of another reason, such as misconduct, the individual will be separated for the latter reason. 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 Principle Deputy Under Secretary of Defense Memo of 24 February 2016 "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)". However, the Board concluded that the statements you provided were not enough to outweigh the seriousness of your misconduct. Additionally, you provided no evidence to support your assertion that PTSD or TBI may have existed at the time of your misconduct. As a result, the Board was unable to substantiate your claims of PTSD at the time of your misconduct and it was their opinion 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