



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

[REDACTED]
Docket No: 3852-16
NOV - 1 2016

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 15 June 2016. The names and votes of the member 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.

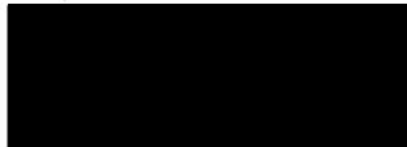
You enlisted in the Marine Corps and began a period of active duty on 10 April 1989. You served for five months without disciplinary incident, but during the period from 3 October 1989 to 9 January 1991, you received nonjudicial punishment (NJP) on three occasions. Your offenses were unauthorized absence (UA) from your unit, failure to obey a lawful written order, assault, resisting apprehension, driving under the influence of alcohol, and drunk and disorderly conduct. About three months later you were convicted by special court-martial (SPCM) of assault, making a threat toward other Marines, and drunk and disorderly conduct. You were sentenced to confinement, a forfeiture of pay, and a bad conduct discharge (BCD). The BCD was approved at all levels of review and on 1 May 1992, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct and assertions that you were not convicted by court-martial, and of suffering from post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in three NJPs and an SPCM. The Board found that your record contains documentary evidence which is contrary to your assertion that

you were not convicted by a special court-martial. 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. The memorandum recognizes that these Boards are not investigative bodies, but provides supplemental guidance to assist the Boards in reaching fair and consistent results when considering whether medical or other evidence indicates PTSD may have contributed to or mitigated the circumstances of a veteran's discharge from the military. However, the Board concluded the information in your service record and statements you provided were not enough to substantiate your claim of PTSD at the time of your misconduct. The Board further concluded that, even if PTSD existed at the time of your discharge, the seriousness of your misconduct outweighed any mitigation that would be offered by the PTSD. Accordingly, your application has been denied.

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 within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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 solid black rectangular box used to redact the signature of the Executive Director.

Executive Director