



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

██████████
Docket No: 4265-16
JAN 23 2017

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Dear ██████████

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.

Regarding your request for a personal appearance, Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 28 July 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.

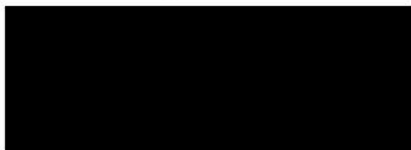
You enlisted in the Navy and began a period of active duty on 24 May 1989. During the period from 10 February 1991 to 2 May 1991, you received three separate nonjudicial punishments (NJPs), each for the offense of failing to obey a lawful order or regulation. As a result of the foregoing, administrative discharge action was initiated. After being afforded all of your procedural rights, you elected only to obtain copies of documents that were going to be forwarded to the separation authority, and to submit a statement. On 4 May 1991, your Commanding Officer forwarded your case to the separation authority recommending that you receive an other than honorable (OTH) discharge by reason of misconduct due to a pattern of misconduct. On 21 May 1991, the separation authority concurred and directed that you receive an OTH discharge due to misconduct. On 23 May 1991 you were discharged with an OTH characterization of service.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of service, circumstances surrounding your misconduct, your post-service accomplishments, and your desire to upgrade your discharge. However, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your pattern of misconduct that resulted in three separate NJPs. Accordingly, your application has been denied.

Regarding your assertion of suffering from post-traumatic stress disorder (PTSD) as a reason for your misconduct, it 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 support your assertion that PTSD 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. Moreover, it was the Board's opinion that even if PTSD existed at the time of your active duty service, 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. For example, in your case, you should include and medical, clinical, or other documentary material regarding any PTSD-triggering events, or other service-related trauma in your reconsideration request. 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