



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

[REDACTED]  
Docket No: 4292-16  
JUL 25 2017

[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 19 June 2017. 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 Marine Corps and began a period of active duty on 5 April 1989. You served for about five months without disciplinary incident, but during the period from 10 October 1989 to 12 July 1990, you received nonjudicial punishment (NJP) on three occasions and were convicted by special court-martial (SPCM). Your offenses were insubordinate conduct toward a noncommissioned officer failure to obey a lawful order, wearing unauthorized insignia, larceny, and breaking restriction.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to a pattern of misconduct at which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ABD). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 19 December 1990, you were discharged.

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. The Board carefully weighed all potentially mitigating factors, such as your contentions of being hazed and abused by your superiors, that you were not provided counsel in a timely manner, assertion of post-traumatic stress disorder (PTSD) as a reason for your misconduct, and recent medical diagnosis of 20 July 2016, by [REDACTED] Counseling Services. Nevertheless, the Board concluded these factors were not sufficient to find an error or injustice warranting relief in your case because of the seriousness of your repeated misconduct that resulted in three NJPs and an SPCM. In regard to your contentions, The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. There is no evidence in your record and you submitted none, to support your contention of hazing and abuse by your superiors. Concerning your contention that you were not provided legal counsel, as stated previously, you waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB), which was your chance for retention, and opportunity to earn a better characterization of service. 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. The memorandum provides supplemental guidance to assist these 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. In reviewing a veterans request to change the characterization of service, the memorandum instructs Boards to give liberal consideration to service treatment or other records documenting symptoms now recognized as PTSD existed during the time of service. Liberal consideration is also given to a diagnosis of PTSD by a civilian medical provider that is supported by information that PTSD symptoms existed at the time of service. However, the Board concluded that the statements you provided and post-service PTSD diagnosis did not significantly mitigate the seriousness of your misconduct or invalidate your diagnosis of an adjustment disorder with anxious mood and an avoidant personality disorder while on active duty. The Board concluded 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 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,

[REDACTED]

Executive Director