



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

[REDACTED]
Docket No. 7296-16

APR 08 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552. Your case was reconsidered in accordance with procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C. 2004). You were previously denied relief by this Board on 25 May 1989.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 March 2017. 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. However, after careful and conscientious consideration of the entire record, the Board determined that while your request does contain new information not previously considered by the Board, it does not warrant relief. Accordingly, your request has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board carefully considered your arguments that you deserve an upgrade to your characterization of service to Honorable based on your assertion that you suffered from mental illness and hypertension at the time of your discharge. Unfortunately, the Board disagreed with your rationale for relief. First, as explained in the 26 May 1989 decision letter, there was no evidence in your record to support your assertion that you suffered from a mental illness or hypertension at the time of your discharge. This Board concurred with that finding and determined that you were mentally responsible for your multiple acts of misconduct that formed the basis for your undesirable discharge. Second, the Board determined that an upgrade to your characterization was unsupported by the evidence since you were responsible for your actions and committed various acts of misconduct that resulted in six non-judicial punishments and one court-martial. In addition, the Board took into account the acts of serious misconduct that resulted in your request for a Good of the Service discharge in lieu of court-martial; a 146 day period of unauthorized absence and two incidents of possession of marijuana. These incidents of

misconduct were sufficiently serious in the Board's opinion to support your characterization of service, independently, due to the punitive discharge authorized for each act of misconduct under the Uniform Code of Military Justice. So once the Board took into consideration all your acts of misconduct, it was too much for them to overlook in order to grant your request. Accordingly, the Board determined no error or injustice exists in your case.

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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director