



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

[REDACTED]
Docket No: 7781-16
OCT 12 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 12 May 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 U.S. Navy and began a period of active duty on 15 June 1992. On 26 October 1993, you received nonjudicial punishment (NJP) for an unauthorized absence and wrongful use of marijuana. You were notified of proposed separation processing by reason of misconduct due to drug abuse. Prior to the completion of separation processing, on 11 January 1994, you began a period of UA that was terminated by your apprehension on 6 June 1994. Subsequently, you were convicted at special court-martial for making a false official statement, falsifying an official document, and UA. You were sentenced to confinement, forfeiture of pay, and a bad conduct discharge (BCD). The BCD was approved at all levels of review and on 21 April 1995, 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 or injustice. The Board carefully considered your request for a name change on your Certificate of Release or Discharge from Active Duty (DD Form 214) and your request for a discharge upgrade due to your

contention that your misconduct did not start until after your return from serving in a hostile fire area.

In regards to your request to change your name from [REDACTED] to [REDACTED] [REDACTED] you have not provided any legal documentation to support this request. Therefore your request for a name change is denied.


The Board also considered your request for an upgrade to your BCD as a matter of clemency. The Board considered your statements that you have stayed out of trouble, you furthered your education and were placed on the Dean's list, and that you have volunteered with the Boys and Girls club, relay for life, and habitat for humanity. The Board also noted that you assert that you served onboard the [REDACTED] "under hostile fire, hostile duty." You state the [REDACTED] was deployed for 184 days and that during your time onboard the ship, you were tasked with acting as the "ships [sic] (canary) to check for nerve agent gas and to check for surface to air warfare." When making its determination, the Board noted that you provided progress notes from your Veterans Readjustment Counselor that state you self-reported being depressed and anxious onboard the ship, being targeting for being a minority within your division, being treated poorly, and being forced to clean up after your shipmates who defecated for sport in areas for which they knew you were responsible.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as the inference that you were suffering from PTSD at the time of your in-service misconduct. The Board noted that although your military record reflects time onboard the [REDACTED] your application to the Board did not contain a medical professional's diagnosis or treatment of PTSD or a definitive indication of service-connected PTSD. The issue of PTSD was fully and 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 Request by Veterans Claiming Post Traumatic Stress Disorder" of 3 September 2014. In accordance with the guidance, the Board gives liberal and special consideration to treatment documentation of PTSD symptoms and medical determinations of the existence of service connected PTSD. The Board considered your personal statement, but did not have treatment records indicating a service-connected PTSD diagnosis and subsequent medical care. The Board found that there was insufficient evidence to support finding that your time onboard the [REDACTED] contributed to your decline in behavior to such a degree that clemency on your BCD is warranted. The Board noted that you were found guilty of wrongful use of a controlled substance and had a period of UA, terminated by apprehension, that lasted nearly 5 months. The Board concluded that the special court-martial conviction was without error and that the information you presented does not establish sufficient mitigating factors such as a PTSD-connection to your misconduct. The Board concluded that the issuance of a BCD was neither erroneous nor unjust. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. 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 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