



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

[REDACTED]  
Docket No. 7839-16

APR 06 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 19 August 2004.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 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 you deserve a disability discharge due to mental illness that existed at the time of your discharge. Unfortunately, the Board disagreed with your rationale for relief. First, there was no medical evidence presented that you were suffering from a mental illness at the time of your discharge. Your medical record contained a medical report clearing you for separation on 4 April 1985. This report did not contain any references to a disability and was relied upon by the Board to find that you did not possess any qualifying disabilities at the time of your discharge. Second, despite the history of mental illness that you exhibited after your discharge, the Board was unable to find a nexus between your condition post-discharge and your active duty service. Third, the Board was unable to find evidence that you were not mentally responsible for your misconduct. There was no indication in your record of non-judicial punishments or your administrative separation board that your behavior was influenced by mental illness or you were not responsible for your misconduct. This led the Board to further conclude that you were responsible for your misconduct and properly processed for administrative separation as a result of your pattern of misconduct. The fact you were

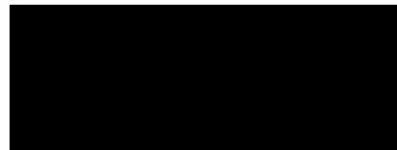
afforded the due process required by service regulations was also persuasive to the Board that your discharge was proper. Since the Board concluded your discharge was proper, the Board also concluded you were disqualified from consideration by the Disability Evaluation System since misconduct processing superseded disability processing by regulation. Accordingly, the Board determined no error or injustice exists in your case.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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