



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

Docket No: 0302-17
OCT 26 2017

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 23 August 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. In addition, the Board considered the advisory opinion furnished by Navy Bureau of Medicine and Surgery (BUMED) dated 18 July 2017, which was previously provided to you. You were advised that you had 30 days to submit a rebuttal statement to the advisory opinion. After the 30 day period had expired without a response, the case was presented to the Board for decision.

You enlisted in the Marine Corps and began a period of active duty on 15 March 1968. During the period from 29 July 1968 to 12 July 1972, you received eight nonjudicial punishments (NJP) for seven periods of unauthorized absence totaling 48 days and drunk in public. On 10 September 1971, you were convicted by a special court martial (SPCM) of two periods of unauthorized absence totaling 134 days. On 6 April 1972 and 19 April 1972, you were convicted by a summary court martial (SCM) of two periods of unauthorized absence totaling five days, disrespect, failure to obey a lawful order and breaking restriction. On 13 October 1976, you were again convicted by a SPCM of four periods of unauthorized absence totaling 1426 days. You were sentenced to a forfeiture of pay, confinement and a Bad Conduct Discharge (BCD). After the BCD was approved at all levels of review, on 8 August 1977, 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 desire to change your characterization of service and contention that your discharge was inequitable because it did not consider your three tours in Vietnam and that you suffer from post-traumatic stress disorder (PTSD). The Board concluded these factors were not sufficient to find an error or injustice warranting relief in your case. 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 recognizes that these Boards are not investigative bodies, but provides supplemental guidance to assist the 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. However, the Board concluded the information in your service record and statement you provided was not enough to substantiate your claim of PTSD at the time of your misconduct. The Board considered the advisory opinion of BUMED as discussed above and your submission of PCC Behavioral Health Encounter Record in support of claim for service connection for PTSD and further concluded that, even if PTSD existed at the time of your discharge, the seriousness of your repeated misconduct, as evidenced by eight NJPs, two SCMs and two SPCM convictions in which one resulted in a BCD, 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 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,

[REDACTED]

Executive Director