



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

[REDACTED]
Docket No: 337-17

FEB 01 2018

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 2 January 2018. 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, relevant portions of your naval record, Advisory Opinion (AO) dated 24 July 2017, by Bureau of Medicine and Surgery, your rebuttal to the Advisory Opinion, and applicable statutes, regulations and policies.

You enlisted in the Navy on 3 April 1983. During the period from 16 March 1984 to 26 September 1985, you received three non-judicial punishments (NJP) for the following offenses: breach of peace and four specifications of unauthorized absence (UA) totaling 60 days. You were also convicted by civil authorities of reckless driving. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and frequent involvement with military/civil authorities. After you waived your procedural rights, your Commanding Officer recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct and frequent involvement with military/civil authorities. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 31 October 1985, 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 the AO dated 24 July 2017, Texas Department of Criminal Justice diagnoses, your rebuttal dated 5 January 2017, your desire to upgrade your character of service and contention of post-traumatic stress disorder (PTSD) as a reason for your misconduct. Your contention that you suffered from 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 Requested by Veterans Claiming Post Traumatic Stress Disorder" of 3 September 2014 and the "Clarifying Guidance to Military Discharge Review Board and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" memorandum of 25 August 2017. However, the Board concluded these factors were not sufficient to warrant relief in your case and agreed with the AO. Specifically, the preponderance of the evidence was insufficient evidence to support your contention that you had a service connected PTSD which contributed to your misconduct.

In regards to your contentions that you were coerced into signing off on representation and you never received a mental evaluation prior to your discharge, the Board noted that there is no evidence in your record, and you submitted none, to support your contention of any mental problems or being coerced into rejecting representation. 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