



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

[REDACTED]  
Docket No. 368-17

FEB 25 2018

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 February 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 and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions contained in Senior Medical Advisory CORB ltr 1910 CORB: 002 of 15 Oct 2017 and Director CORB ltr 1910 CORB: 001 of 29 Nov 2017; copies of which were provided you for comment.

A review of your record shows you entered active duty with the Marine Corps in July 2010. You were deployed to Afghanistan in November 2011 and were injured by an Improvised Explosive Device in January 2012 resulting in a Purple Heart Medal. You eventually returned from deployment and attended the Advanced Infantry Course graduating top of your class of 46 Marines. In 2014, you applied for the FY14 Enlisted Early Release Program and commenced seeing neurology and psychiatry medical providers for frequent headaches and Post-Traumatic Stress Disorder (PTSD) symptoms. Your medical record shows treatment visits in August, September, and November 2014 after which you were determined to be fit for full duty. On 26 November 2014, you received a Navy and Marine Corps Achievement Medal for your superior performance from October 2010 through November 2014 before you were discharged from active duty on 1 December 2014 with a RE-1A reentry code. On 15 July 2015, the Department of Veterans Affairs (VA) rated you for a number of service connected disabilities to include Traumatic Brain Injury (10%) and PTSD (50%).

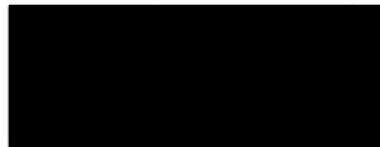
The Board carefully considered your arguments that you deserve to be placed on the disability retirement list for neurological deficits related to your TBI and PTSD conditions. Unfortunately,

the Board disagreed with your rationale for relief. In making their findings, the Board substantially concurred with the advisory opinions contained in Senior Medical Advisory CORB ltr 1910 CORB: 002 of 15 Oct 2017 and Director CORB ltr 1910 CORB: 001 of 29 Nov 2017. Specifically, the Board lacked evidence to find that you suffered from a substantial occupational impairment due to your disability conditions. The evidence in your record shows that you were performing at the highest levels when you were discharged from active duty. Your superior duty performance, evidenced by your performance evaluations and Navy and Marine Corps Achievement Medal, did not support a finding that you were unable to perform the duties reasonably expected for your office, grade, rank or rating at the time of your discharge. This finding was also consistent with the RE-1A reentry code issued to you upon your discharge that indicates you were considered physically fit for reenlistment and your medical reports leading up to your discharge that all found you fit for full duty. The Board was not persuaded by the VA's rating of your TBI and PTSD conditions since eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application.

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 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