



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

Docket No. 412-17
FEB 25 2018

Dear M [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 Advisor ltr 1910 CORB: 002 of 16 Nov 2017 and Director CORB ltr 1910 CORB: 001 of 16 Nov 2017; copies of which were provided to you for comment.

A review of your record shows you entered active duty with the Marine Corps in November 2011. In 2012, you were involved in several incidents where you lost consciousness after striking your head. As a result of your last incident in November 2012, you were placed on Limited Duty to treat your post-concussive headaches, memory loss, and insomnia. However, you were eventually returned to full duty status and underwent periodic health assessments in April 2014 and March 2015 that found you fit for full duty. A separation physical on 28 September 2015 noted your history of treatment for Traumatic Brain Injury (TBI) symptoms but cleared you for full duty and separation, resulting in the issuance of a RE-1A reentry code. You were discharged on 13 November 2013 at the end of your obligated active service. In 2016, the Department of Veterans Affairs (VA) issued you a number of service connected disability ratings that included post-traumatic headaches (30%) and TBI (10%).

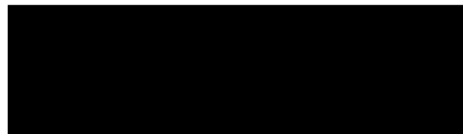
The Board carefully considered your arguments that you deserve to be placed on the disability retirement list. You assert that you were suffering from TBI and post-traumatic headaches that should have been referred to the Physical Evaluation Board. Unfortunately, the Board disagreed with your rationale for relief. In making their findings, the Board substantially concurred with the advisory opinions contained in Senior Medical Advisor ltr 1910 CORB: 002 of 16 Nov 2017

and Director CORB ltr 1910 CORB: 001 of 16 Nov 2017. Specifically, the Board determined there was insufficient evidence to support a finding that you were unfit for continued naval service due to TBI or post-traumatic headaches. The Board relied on the two periodic health assessments conducted in 2014 and 2015 that showed you were medically determined to be fit for duty. In addition, the Board found persuasive the separation physical that also found you medically fit for duty just prior to your discharge from active duty. These pieces of medical evidence combined to convince the Board that there was insufficient evidence to show you suffered from an occupational impairment sufficient to find you unfit for continued naval service due to TBI or post-traumatic headaches. The Board could not find evidence to support a finding that you were unable to perform the duties of your office, grade, rank or rating due to these disability conditions. Regarding the VA's rating of your service connected disability conditions, the Board did not find them probative on the issue of unfitness for continued naval service 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