



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

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Docket No: 713-17/

9119-12

NOV 6 2017

Dear [REDACTED]

This is in reference to your recent reconsideration request. You previously petitioned the Board and were advised in our letter of 10 June 2013 that your application had been denied. Your case was reconsidered in accordance with Board for Correction of Naval Records procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C 2004).

Your current request has been carefully examined by a three-member panel of the Board for Correction of Naval Records, sitting in executive session on 3 August 2017. The names and votes of the members of the panel will be furnished upon request. Documentary material considered by the Board consisted of your Application for Correction of Military Record (DD Form 149), any material submitted in support of your application, and your prior case file. In addition, the Board considered the advisory opinion (AO) provided by the Bureau of Medicine and Surgery, BUMED ltr Ser M34/17UM34178, a copy of which was previously provided to you on 9 June 2017.

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 substantially agreed with the AO and concluded the information in your service record and statements you provided were not enough to substantiate your claim of PTSD at the time of your misconduct. The Board further concluded that, even if PTSD existed at the time of your discharge, the seriousness of your misconduct outweighed any mitigation that would be offered by the PTSD.

Specifically, after careful and conscientious consideration of the entire record, the Board determined your correspondence including statements of your treatment for anxiety and

insomnia by [REDACTED] even though not previously considered by the Board, were insufficient to establish the existence of material error or injustice. The Board determined that your contention that you suffered with post-traumatic stress disorder (PTSD), while serving in the Navy, was not enough to outweigh the significant misconduct you committed resulting in three instances of nonjudicial punishment. Accordingly, your application has been denied.

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,

[REDACTED]

Executive Director

Enclosure