



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

[REDACTED]
Docket No: 824-17

APR 10 2018

[REDACTED]
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 14 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.

You enlisted in the Navy and began a period of active duty on 5 June 1990. You served for a year and 10 months without disciplinary incident, but on 23 April 1992, you were convicted by special court-martial (SPCM) of wrongful use of cocaine. Subsequently, you were notified of pending administrative separation by reason of misconduct due to drug abuse at which time you waived your procedural right to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved your separation and directed that you should be discharged under other than honorable conditions by reason of drug abuse, and on 30 July 1992, you were discharged.

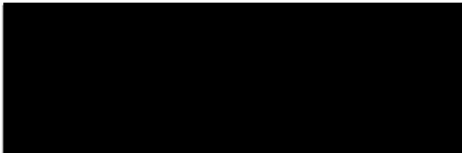
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as your post service conduct and contentions that your discharge should be upgraded to under honorable conditions, that you feel your service was honorable during Desert Storm and that you have been diagnosed with post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded these factors were not

sufficient to warrant relief in your case because of the seriousness of your misconduct that resulted in a SPCM and wrongful drug use in light of the Navy's policy of "zero tolerance." You were given an opportunity to defend your actions, but waived your procedural rights. Finally, it is a fundamental tenet of military administrative law that a sailor's service is characterized based on his entire record in the current enlistment. 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, PDUSD Memo of 24 Feb 16 "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI" and PDUSD Memo of 25 Aug 17 "Clarifying Guidance to Military Discharge Review Boards 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." The memorandums recognize that these Boards are not investigative bodies, but provide 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. In reviewing a veterans request to change the characterization of service, the memorandum instructs Boards to give liberal consideration to service treatment or other records documenting symptoms now recognized as PTSD that existed during the time of service. Liberal consideration is also given to a diagnosis of PTSD by civilian a medical provider that is supported by information that PTSD symptoms existed at the time of service. However, the Board concluded that the statements you provided and post-service civilian medical provider's diagnosis did not significantly mitigate the seriousness of your misconduct while on active duty. The Board concluded that the seriousness of your misconduct 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. You are entitled to have the Board reconsider its decision upon submission of new and material evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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