



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

[REDACTED]  
Docket No: 6888-17

JAN 12 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 son's application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your son's application on 4 December 2017. 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 son's application, together with all material submitted in support thereof, relevant portions of your son's naval record and applicable statutes, regulations and policies.

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.

Your son served in Operation ENDURING FREEDOM from April to November 2012. On 19 December 2012 during your son's post deployment health assessment, your son reported he had no health issues or concerns at that time. On 21 Jun 2013, your son received nonjudicial punishment (NJP) for wrongful use of cocaine. On 7 July and 20 September 2013, he was counseled and warned that further misconduct could result in administrative discharge. On 16 August 2013, the medical officer at [REDACTED] Battalion [REDACTED] Marines stated that he had reviewed your son's record and medical evaluation questionnaire in accordance with MARADMIN 328/10 and stated that your son had not been diagnosed with or reported symptoms consistent with Posttraumatic Stress Disorder (PTSD) or Traumatic brain injury (TBI). On 26 September 2013, he received a second NJP for driving under the influence and failing to obey a lawful order. Subsequently, administrative discharge action was initiated by reason of misconduct due to drug

use. On 28 October 2013, the separation authority directed that he be separated due to misconduct with an other than honorable (OTH) discharge due to drug abuse. On 5 November 2013, your son was discharged with an OTH with a narrative reason of misconduct (Drug Abuse).

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 desire to have your son's characterization of service changed to general, his current severe medical state and your contentions that your son's discharge and current medical state is due to your son's service in Afghanistan. Your contention that your son may have suffered from PTSD and TBI 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. The memorandums 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 concluded that the statement you provided and Connecticut Probate Court's appointment of conservator was not enough to substantiate your claim of PTSD or TBI which caused your son's misconduct or current medical state. The Board was very sympathetic to your son's current medical state but concluded that the evidence of record did not support your contentions and found no error or injustice with your son's discharge. 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