



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

█  
Docket No: 11097-19  
2197-18  
Ref: Signature Date

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Dear █

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

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 23 October 2020. 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 and all material submitted in support of your application.

You presented statements regarding your discharge from naval service as new evidence. You state in part that your commanding officer would not allow you to fight charges you were falsely accused of. You also state you were threatened to sign all documents, and you were under duress. You further state that the Veterans Administration (VA) upgraded your discharge for VA purposes.

The Board noted you failed to provide evidence to support your contentions of duress, and of the alleged actions of your commanding officer. The Board determined that the evidence that you provided, even though not previously considered by the Board, was insufficient to establish the existence of probable material error or injustice.

Please note decisions reached by the VA to determine whether a former service members rate certain VA benefits do not affect previous discharge decisions made by the Navy. The criteria

used by the VA in determining whether a former service member is eligible for benefits are different than that used by the Navy when determining a member's discharge characterization.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon the submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In the absence of new matters 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,

12/10/2020

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Executive Director

Signed by █