



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. 10664-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 April 2024. 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.

A review of your record shows that you enlisted in the Navy and entered active duty on 16 October 2001. On 16 June 2004, you received non-judicial punishment (NJP) for violating Article 134 of the Uniform Code of Military Justice (UCMJ). You were reduced in rank to E-2 and your rating was removed. Your evaluation report, ending on 17 June 2004, noted you were not recommended for retention advancement until having documented improvement. Your last evaluation on active duty, ending on 10 September 2005, stated, "member has been unwilling to adapt to military life. Does not follow rules and regulations. Has been an average to below average Sailor his entire tour onboard Kitty Hawk. Need constant supervision."

Ultimately, you were discharged on 14 October 2005 and received an Honorable characterization of service, your reenlistment code was RE-3R, noting failure to meet professional growth criteria under Military Personnel Manual (MILPERSMAN) 1160-030. Your Certificate of Release or Discharge from Active Duty (DD-214) states Completion of Required Active Service as the narrative reason for separation. You were subsequently transferred to the Naval Reserve and later discharged from the Naval Reserve on 30 July 2009.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case. These included, but were not limited to, your contention that you deserve a medical discharge because you suffered from a disability condition while in-service. You argue during active duty service you were harassed and hazed which led to panic attacks and psychiatric medical care. Additionally, you checked the "PTSD" box on your application but chose not to respond to the Board's request for supporting evidence of your claim.

After thorough review, the Board concluded the potentially mitigating factors were insufficient to warrant relief. The Board noted there was no evidence of any psychiatric care or mental health diagnosis while in-service. Additionally, the Board noted you were never referred to a medical board for any disability conditions. Further, you did not submit any evidence, other than your statement, to substantiate your contentions. Therefore, the Board relied on the presumption of regularity in determining your discharge was proper as issued. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon 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 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,

5/8/2024

