



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

MTN
Docket No: 6863-14
21 July 2015

5 U.S.C 552(b) (6)

Dear 5 U.S.C 552(b) (6)

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 26 June 2015. 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, your naval record, and applicable statutes, regulations, and policies.

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.

You enlisted in the Navy and began a period of active duty on 15 May 1981. During the period from 29 September 1981 to 24 June 1984, you received four nonjudicial punishments (NJP) for five periods of unauthorized absence, seven specifications of failure to go to your appointed place of duty, two specifications of wrongful possession and use of marijuana, attempted larceny, and breaking restriction.

On 17 July 1985, you were notified of administrative separation by reason of misconduct due to drug abuse at which time you waived your procedural rights. On 23 July 1985, the commanding officer recommended an other honorable conditions discharge by reason of

misconduct due to drug abuse. On 6 August 1985, the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse and you were so discharged on 16 August 1985.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and diagnosis of post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded this factor was not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct which resulted in four NJPs.

The Board also considered your diagnosis of PTSD in light of the Secretary of Defense's September 3, 2014 guidance to Boards for Correction of Military Records regarding discharge upgrade requests by veterans claiming PTSD. The Board liberally considered whether your PTSD was a causative factor in the misconduct that resulted in your separation. After a full and careful consideration of the matter, the Board determined that there was insufficient evidence in the record to support a conclusion that a causal relationship with your 1983 Lebanon deployment, the PTSD symptoms, and misconduct exists. Specifically, the Board concluded that your drug abuse prior to the 1983 Lebanon deployment was not caused by your PTSD and further determined that, even if there was a nexus between the PTSD and your later misconduct, the severity of the misconduct would substantially outweigh any mitigation created by your PTSD. Accordingly, your application has been denied.

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,

5 U.S.C 552(b) (6)

ROBERT J. O'NEILL
Executive Director