



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

YTC
Docket No: 3160-19
Ref: Signature Date

MR MICHAEL J LITTLE

Dear Mr. Little:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 application on its merits. A three-member panel of the Board for Correction of Naval Records (Board), sitting in executive session, considered your application on 19 August 2019. 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 served honorably on active duty from 2002 to 2006. You affiliated with the Navy Reserves in October 2006, and served two overseas deployments. From May 2008 through May 2009, you served in Camp Bucca, Iraq, where your duties included guarding detainees. You deployed to Bagram and Parawan Afghanistan from September 2009 to November 2010, where again you served as a guard. After you returned from your active duty deployment to Afghanistan, you re-affiliated with the Reserves. In your application for correction, you stated that after your overseas deployments, you lost 10 shipmates to suicide. In January 2015, you were notified of being placed in a line of duty (LOD) eligible status. On 23 April 2015, Commander, Navy Personnel Command (CNPC) approved your receipt of drilling LOD Healthcare Benefits. In CNPC's approval letter he noted you had a diagnosis of Post Traumatic Stress Disorder (PTSD) and directed that a Medical Evaluation Board be initiated no later than 22 May 2015. A Physical Evaluation Board (PEB) convened on 8 December 2015, and took your diagnosis of PTSD and Depressive Disorder into consideration. The PEB noted

that although you did experience symptoms, you did not currently require medications for your conditions and had no history of hospitalization. The PEB found you fit to continue your military service. On 30 December 2015, you received the PEB findings and submitted a statement disagreeing with the PEB findings. You noted that you were taking prescription medication and requested that you received a medical retirement due to combat related injuries. You asked for a formal PEB, and provided a statement of support for your request from a retired rear admiral who supervised you in your civilian career. The rear admiral noted that he had witnessed the debilitating effects that PTSD had on you, and he opined that you were not fit for continued military service nor were you world wide deployable. On 17 March 2016, you appeared before a formal PEB; the rear admiral also appeared as a witness on your behalf. The formal PEB concluded that your medical condition did not preclude you from the reasonable performance of your duties. On 1 June 2016, you filed a petition for relief to the Navy Counsel of Personnel Board (CORB) in which you requested transfer to the Temporary Disabled Retired List (TDRL) due to PTSD. On 7 July 2016, the Director, CORB denied your relief. In 2017, you were transferred to the Standby Ready Reserves.

In your application for correction to the Board, you ask for an LOD determination for purposes of establishing treatment at Bethesda, MD at a Military Treatment Facility (MTF), a review of the formal PEB findings, that you be found unfit for duty, and that the Board review the petition for relief of the formal PEB findings. You seek transfer to the TDRL, contending that the PEB erred in weighing the evidence and that the evidence supports a finding of unfitness for full duty. You provided supplemental information from 2019, to the Board from an MD who has treated you for several years through the Wounded Warriors Pain Care Initiative. The MD stated that you were referred to care due to PTSD and treatment resistant depression, and that prior to referral you were "pretty incapacitated." The MD stated that you had undergone numerous interventions in clinic with success. Additionally, Veterans Affairs gave you a combined disability rating of 80% in March 2013; of 100% in May 2019; and of 100% in June 2019.

You assert that the PEB's finding that you were fit for duty is wrong and that the PEB determination violated SECNAVINST 1850.4 series in that the decision was contrary to the great weight of the evidence of the record. You assert that the CORB and the PEB ignored the threshold requirement that all reasonable doubt must be resolved in favor of the servicemember.

The Board carefully reviewed your application, the evidence you provided in support of your contentions, and the information reflected in your service record. The Board considered that you received an informal PEB, a formal PEB, and that the CORB considered your petition for relief in regard to the findings of the PEB. The Board noted your official personal statements, the memorandum of 6 January 2016 from Walter Reed National Military Medical Center, the 8 January 2016 statement from the retired rear admiral, and the rationale articulated in the Findings of the formal PEB. The formal PEB considered that in addition to maintaining full-time employment, you and your wife testified that you had created your own non-profit entity where you volunteer to assist veterans with understanding the myriad of benefits available to them. The formal PEB noted on your wife's testimony which indicated that she had not observed sleep disturbances, she found you to be generally happy, and that you engage in social activities including camping, visiting museums, and bowling with friends. The Board concluded that you

have a diagnosis of PTSD but that your condition does not preclude you from reasonable performance of duties. The Board found that the formal PEB's decision was supported by an analysis and examination of your medical diagnosis, and by your particular circumstances. Furthermore, this decision was examined by the CORB upon your application for relief with respect to the PEB's decision. The Board determined that the PEB's decision and the review process were executed without error or injustice. Even taking into consideration your request to be found unfit and noting the support you enjoy from experienced and senior members of the Navy leadership community, the Board concluded that the determination that you are fit for duty was issued without error or injustice. Accordingly, the Board declined to take corrective action with regard to a Line of Duty determination to establish medical care at an MTF, or to find you unfit for duty.

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 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,

10/5/2019

X

ELIZABETH A. HILL
Executive Director