



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: 6207-20
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.

A three-member panel of the Board, sitting in executive session, considered your application on 14 July 2021. The names and votes of the panel members 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, to include the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). The Board also considered an advisory opinion (AO) from a qualified mental health professional dated 17 April 2021, which was previously provided to you.

You entered a period of active duty in the Marine Corps on 12 November 1992. You received nonjudicial punishment (NJP) on 17 December 1993 for disrespect to a Second Lieutenant by failing to address him properly and for two specifications of disrespect to a Sergeant for walking out during a counseling and stating you preferred a charge sheet in violation of Articles 89 and 92, Uniform Code of Military Justice (UCMJ). You received a second NJP on 22 November 1994 for a six hour unauthorized absence (UA) and for disobeying an order to report to a legal appointment in violation of Articles 86 and 92, UCMJ. Your third NJP occurred on 6 February 1995 for a one hour UA and for assaulting a Lance Corporal in violation of Articles 86 and 128, UCMJ. You again received NJP on 31 May 1995 for assaulting a Private First Class in violation of Article 128, UCMJ. Your final NJP occurred on 24 October 1996 for two specifications of willfully disobeying an order from a Sergeant when told to control yourself and behave professionally, and for disrespect in violation of Article 91, UCMJ. You completed your enlistment and were discharged at your expiration of active

service with a general (under honorable conditions) characterization of service on 11 November 1996.

You contend that you suffered from PTSD in-service and that your condition potentially contributed to the circumstances resulting in your discharge. You state you developed PTSD from traumatic events you witnessed in Cuba while on a mission to control riots and to help refugees escape the communist regime. You state you heard land mines that were close to your camp, you controlled riots, and interrogated migrants. You state you still suffer from PTSD and a doctor diagnosed this condition. You further contend you began suffering from alcoholism shortly after joining the Marines and your infractions during 1994-1995 were alcohol related. You state you relapsed in 1997 but became sober in 2003. You further state you attended comedy school, have a successful career, and are now a comedian, motivational speaker, and yoga instructor.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your contentions noted above, desire to upgrade your discharge, post-service sobriety, and your commendable community volunteer work. The Board also relied on the AO in making its determination. The AO noted that although you contend a post-discharge diagnosis of PTSD, there was no clinical evidence provided to substantiate this diagnosis. Additional information, such as medical records containing a diagnosis of a mental health condition or description of symptoms, and linked to your military misconduct would aid in rendering an alternate opinion. Consequently, the AO concluded that the preponderance of available objective evidence failed to establish you suffered from PTSD or other mental health condition other than Alcohol Use Disorder at the time of your military service, or that your in-service misconduct could be mitigated by a mental health condition. In its deliberations, the Board noted that you did not provide medical documentation to support your contention of a post-service PTSD diagnosis. Based upon this review, the Board considered all matters submitted to include your positive contributions, but concluded that these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your five NJPs, outweighed these mitigating factors. 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, _____
7/19/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]