



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

■  
Docket No: 7366-20  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 you did not file your application in a timely manner, the statute of limitations was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 19 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 the 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 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). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 13 April 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 2 April 1990. On 14 July 1992, you received nonjudicial punishment (NJP) for three specifications of unauthorized absence (UA). Additionally, you were counseled and warned that further misconduct could result in administrative discharge action. From 6 August 1992 to 21 September 1992, you received three NJPs. The offenses included two specifications of UA, three specification of failing to go to your appointed place of duty, being absent from your appointed place of duty, and breaking restriction. On 9 October 1992, you were notified of administrative discharge action by reason of misconduct due to a pattern of misconduct. After being afforded your procedural rights, you elected to waive your right to request to have your case heard before an administrative discharge board. On 15 October 1992, your case was forwarded to the separation authority with a

recommendation that you receive an other than honorable (OTH) discharge. On 23 October 1992, the separation authority approved the recommendation and directed that you be separated from the Navy with an OTH discharge due to a pattern of misconduct. On 23 December 1992, you were discharged from the Navy with an OTH characterization of service.


A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering from Post-Traumatic Stress Disorder during your service. The AO noted that based on the available evidence, there is evidence you exhibited behaviors associated with a mental health condition during your military service and your misconduct may be mitigated by your mental health condition.

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 assertions that you believe your discharge was forced and unjust. You further contend that your discharge was due solely to your inability to perform your duties due to medial problems, and you experienced vertigo like symptoms with insomnia, air sickness, gut wrenching pain after vomiting, and uncontrolled irritability due to lack of sleep or inability to sleep. However, based upon this review, the Board concluded that these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your four NJPs, and the fact that you were warned of the consequences of further misconduct after your first NJP, outweighed these mitigating factors. Additionally, the Board did not concur with the conclusion of the AO. 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,

8/2/2021

  
Executive Director

Signed by: 