



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: 8400-20
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.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 12 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 Kurta 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 2 May 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 8 May 1990. During the period from 26 June 1991 to 24 February 1992, you were admitted for psychiatric hospitalization on three occasions; each time, you were diagnosed with a Personality Disorder. On 10 April 1992, you received nonjudicial punishment (NJP) for 3 specifications of unauthorized absence totaling 17 days, and 2 specifications of missing ship's movement. Additionally, you were notified of administrative discharge action by reason of misconduct due to commission of a serious offense. 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 4 June 1992, your case was forwarded to the separation authority. On 17 June 1992, the separation authority directed your separation from the Navy with an other than honorable (OTH) characterization of service for misconduct due to commission of a serious offense, and you were so discharged.

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 a mental health condition during your service. The AO noted that the preponderance of available objective evidence failed to establish you were diagnosed with a mental health condition, suffered from a mental health condition at the time of your military service, or that your in-service misconduct could be mitigated by a 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 were discharged due to being in a coma and missed ship's movement, that you were informed that if you signed off on your discharge, it would automatically change after six months, and at the time of your discharge, you had no symptoms related to PTSD. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. Further, regarding your contention that your characterization of service would automatically change after six months, the Board advises that there is no provision of law or in Navy regulations that allows for re-characterization of service due solely to the passage of time. 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,

7/20/2021

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Executive Director

Signed by: █