



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: 8584-20
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.

A three-member panel of the Board, sitting in executive session, considered your application on 26 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 2 May 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 13 November 1990. On 14 November 1990, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 10 September 1992, you were convicted by civil authorities of assault involving domestic violence. On 11 November 1992, you received nonjudicial punishment (NJP) for two days of unauthorized absence and missing movement. Additionally, you were counseled and warned that further misconduct could result in administrative discharge action. On 13 March 1993, you received NJP for disobeying a lawful order, and disrespect towards a chief petty officer. On 18 July 1993, you received NJP for failing to obey a lawful order to participate in remedial physical fitness training. Further, you were notified of administrative discharge action due to a pattern of misconduct and 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 20 July 1993, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable

(OTH) discharge. On 30 July 1993, the separation authority directed that you receive an OTH discharge due to a pattern of misconduct. On 10 August 1993, 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, 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 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: (a) you were unjustly discharged, you did not get the help you needed, served with no problems, and you were singled out by your chiefs for personal reasons; and (b) you were stressed out by your wife taking your new born son and all of your belonging while you were overseas, and you have been homeless since February 2020, and need help. 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 civil conviction and three 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 concurred with the AO that based on the available evidence, 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 your in-service misconduct could be mitigated by a mental health condition. 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,

7/29/2021

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Executive Director

Signed by: █