



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: 2434-21

Ref: Signature Date



Dear █:

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.

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, sitting in executive session, considered your application on 24 September 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, 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), and the relevant Advisory Opinion.

You enlisted in the Navy and began a period of active duty on 19 June 2001. Your evaluation for the period of 29 September 2001 to 15 June 2002 reflects that you had the potential to be an outstanding Sailor. In February 2003, Commanding Officer, USS █) designated you as an Enlisted Surface Warfare Specialist. On 13 August 2003, summary court martial charges were preferred against you on the basis of wrongful use of marijuana on or about 30 June 2003. On 16 October 2003, you were discharged on the basis of misconduct, and received an other than honorable characterization of service and a reentry (RE) code of RE-4.

In your application to the Board, you request an upgrade to your other than honorable discharge characterization. You state that when you joined the Navy, you left home for the first time in your life, served onboard a Navy Ship without incident, and achieved a few accomplishments. You further state that you were subjected to war time activities, inappropriate activities on the ship, and feeling like you were in prison on the ship. You claim that you had a one-time lapse in judgment and were subsequently discharged into the world, while traumatized, with no guidance. In support of your application you provide character letters, a personal statement, proof of your Surface Warfare certification, a copy of your Shellback card, and certification of trade after leaving the Navy. You also provide a personal statement in which you assert that mentally you were not in a good place due to your youth, feeling alone, and not having ever been exposed to any of the elements of Navy life or life on your own. You state you were isolated, took your career seriously, and tried to control your emotions. You contend that you feel like your mental status caused you to self-medicate and handle your emotions the only way you knew how because the Navy did not teach you how to cope or what Post Traumatic Stress Disorder (PTSD) was. Since your discharge, you realized how important your status was and would like to get rid of the shame and stigma of your discharge. Since separation from the Navy, you earned your Massage Therapy Diploma and attended █ College █. The information you provide states that you became a man of integrity, have a willingness to help others, have become a homeowner, are a team player, found the positive and are working toward other personal goals.

As part of the review process, a Licensed Clinical Psychologist reviewed your request and issued an Advisory Opinion dated 9 August 2021. The Advisory Opinion noted that you contend that you suffered from PTSD but did not provide any description of the purported trauma, your symptoms, or indicate how those symptoms interfered with your ability to perform your duties. The Advisory Opinion further noted that you did not provide evidence of life stressors that were extraordinary or unique, or that you met the criteria of a mental health condition. The Advisory Opinion determined that the preponderance of available evidence failed to establish that you 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 Advisory Opinion was provided to you, and you were given 30 days in which to submit a response. When you did not provide a response within the 30-day timeframe, your case was submitted to the Board for consideration.

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 youth, your contention that you suffered from PTSD, and your claim that you had a one time lapse in judgment. With regard to your contention of a mitigating mental health condition, the Board reviewed the analysis and conclusions of the Advisory Opinion and substantively concurred with its determination that the evidence fails to establish that you suffered from a mental health condition while in the Navy that mitigated your misconduct. The Board noted that your available service record does not contain a complete administrative discharge package, but considered that charges of wrongful use of a controlled substance were preferred against you. Even in consideration of your positive achievements in the Navy and your post-discharge accomplishments, the Board found that the seriousness of

wrongful use of a controlled substance while on active duty supported the issuance of an other than honorable discharge. Accordingly, the Board concluded that your other than honorable characterization of service was issued without error or injustice, and that corrective action is not warranted.

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,

10/18/2021

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Executive Director

Signed by: █