



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: 2821-21
Ref: Signature Date

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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 10 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 Army and service from 25 July 2001 through 17 January 2002, when you received an uncharacterized discharge. You subsequently enlisted in the Navy and began a period of active duty on 1 August 2002. A 13 November 2002 Report of Medical History reflects no mental health concerns. Your record contains Administrative Remarks dated 15 January 2003 that note your receipt of an entry level separation due to a change in program, but your Certificate of Release or Discharge from Active Duty (DD Form 214) for the period beginning 1 August 2002 does not indicate a break in service while in the Navy. You received an active duty evaluation for the period of 27 May 2003 to 25 July 2003, which stated that you played a vital role onboard the USS █ within your division and that you

consistently accomplished all tasks on time with superior results. Your DD Form 214 documents Time Lost beginning 8 October 2003 through 17 January 2005. Your DD Form 214 further reflects that you were discharged from the Navy on 31 January 2005, on the basis of administrative separation in lieu of trial by court martial, and that you received an other than honorable discharge and a reentry (RE) code of RE-4.

In your application for correction, you request an upgrade from an other than honorable discharge to a general characterization of service. You state that transitioning from the Army to the Navy was very hard. You also cite that you struggled with personal hardship to include a family illness and you contend that you suffered from depression and migraines.

As part of the review process, a Physician Advisor reviewed your request and issued an Advisory Opinion dated 31 July 2021. The Advisory Opinion noted that your in-service records do not contain evidence of a mental health condition and although you claim depression, you did not provide any description of your purported symptoms that would meet the criteria for a mental health disorder or information on how those symptoms interfered with your ability to function or related to your misconduct. The Advisory Opinion determined that the preponderance of objective evidence failed to establish that you incurred a mental health condition during your military service or that your in-service misconduct could be attributed to 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: the contentions in your application, and your statement that you were experiencing family hardships and depression. The Board reviewed the analysis and conclusions of the Advisory Opinion, and substantively concurred with its determination. The Board found that you did not provide sufficient evidence to establish that you suffered from a mental health condition that mitigated the time lost reflected on your DD Form 214. Given the length of your absence as documented on your DD Form 214 and taking into consideration that you appear to have requested an administrative discharge to avoid trial by court martial, the Board found that your current characterization of service is appropriate. The Board found that your other than honorable discharge is supported by the misconduct (time lost from October 2003 through January 2005) reflected in your record. The Board concluded your discharge 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,

10/17/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]