



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

██████████
Docket No: 3101-21

Ref: Signature Date

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Dear Petitioner:

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.

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 limitation 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 November 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health provider which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

You enlisted in the Naval Reserve on 16 November 1990, and began a period of active duty in the Navy on 26 November 1990. On 4 April 1991, you joined the ██████████ underway in the ██████████ during ██████████ and remained assigned to that ship

through the completion of its deployment cycle, which included Operation Sea Angel. On 8 August 1991, you received nonjudicial punishment (NJP) for a 25-day period of unauthorized absence (UA) from 1 July 1991 until 25 July 1991. Although your NJP punishment included a period of 30 days of restriction, you fled restriction on 16 August 1991 and remained absent without leave until 7 January 1992. On 28 February 1992, you requested separation in lieu of trial (SILT) by special courts-martial. In your SILT request, you outlined your frustration at the unfairness of losing your "A" school guarantee and acknowledged that you rebelled and went UA. After being given a "second chance," you went UA again for several reasons, including that you were still upset that you were not going to get what you wanted. You stated that you returned from UA to cut your losses with the Navy so that you could get back into business with a friend. Your SILT request was denied on basis that it would not be in the best interests of the Navy to permit your separation without a court-martial for your misconduct. At trial, you were found guilty and sentenced to 45 days of confinement, reduction to E-1, forfeitures of pay, and a bad conduct discharge (BCD). Following appellate review of your trial proceedings, your BCD was ordered executed, and you were discharged on 6 August 1993.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the applicable guidance, to include the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and your contentions that you only recently discovered that you suffer from Post Traumatic Stress Disorder (PTSD). In reviewing your contention of PTSD, the Board considered the medical AO in making its determination. The AO noted that your in-service records contain a mental health evaluation, dated 10 March 1992, which found no evidence of a psychological disorder. The AO observed that you raised no concerns for your mental health during your separation physical nor did you specify the in-service traumatic stressors or symptoms which might meet the criteria for a mental health condition or PTSD. In its deliberations, the Board favorably considered your contention that you have been diagnosed with PTSD but concurred with the AO's assessment that your records contained insufficient evidence to establish that you suffered from a mental health condition or PTSD at the time of your military service or that your in-service misconduct could be mitigated by such condition.

The Board also considered your contentions that you have achieved great academic and professional success since your discharge and are a valued member of your community. With respect to your post-service conduct, the Board noted that, while you did submit transcripts of your academic achievements for consideration, you did not submit any documentation in support of your community involvement or professional success. Although you referenced your LinkedIn profile as evidence in support of your post-service contentions, the Board is not an investigative body and, therefore, not able to independently review external evidence which you do not specifically attach as part of your request. Based upon its review of the limited evidence you submitted, the Board concluded the potentially mitigating factors you claim were insufficient to warrant relief at this time. Specifically, without supplemental evidence available to consider in support of your post-service contentions, the Board determined that your misconduct, as evidenced by nonjudicial punishment and a special court-martial for UA, at which your prolonged absence and the circumstances surrounding it were found sufficient to warrant a BCD, outweighed the mitigating factors you presented. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

