



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: 3297-21
Ref: Signature Date



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 27 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 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 26 August 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 28 January 1982. Prior to entry onto active duty, you signed a Statement of Understanding of Marine Corps Drug Policy. On 5 April 1984, you were counseled concerning your deficiencies in your performance of duty and conduct, constant tardiness, personal appearance, dereliction of duty, and attention to detail. On 20 April 1984, you were assigned to the Fiscal Office. On 26 April and 31 May 1984, you received nonjudicial punishment (NJP) for three specifications of failing to be at your appointed place of duty, and wrongful use of marijuana. It was noted that after your second NJP, you demonstrated a noticeable improvement in your attitude and conduct. However, you soon returned to exhibiting poor performance by displaying a lack of concern and dedication, poor military bearing, and a languid attitude toward responsibility. On 11 July 1984, you were counseled concerning your constant poor military appearance and lack of dedication to job

performance. During the week of 16 July 1984, you were counseled concerning the amount of time you were spending on the phone with your girlfriend during working hours. Your phone privileges were then revoked after it was discovered that your girlfriend was married, and living with a Marine Corps Gunnery Sergeant. On 18 July 1984, the Chaplain reported that you suffered from a lack of maturity in which you felt your personal problems were more important than your commitment and responsibility to the Marine Corps. On 27 July 1984, you were involved in an incident in which two six-packs of soda was stolen from a commercial truck outside the Supply Department. You admitted to the theft, apologized and was given another chance. On 6 August 1984, a phone call was received regarding you not regularly attending a urinalysis surveillance program. On 10 August 1984, a phone call received regarding your urinalysis of 26 and 30 July testing positive. At that time, you stated you were not using drugs. You tested positive again on 9 and 13 August 1984. You then admitted you were using drugs since you were under surveillance. No charges were brought against you use, but you were charged with lying about using drugs. On 17 August 1984, you were 30 minutes late claiming you overslept at your girlfriend's house. On 10 September 1984, you were notified that a Warrant was out for your arrest for failing to pay a ticket for possession of marijuana. On 11 September 1984, a request for discharge was submitted by the Fiscal Officer. It was reported that while you were in Correctional Custody, you were retested by urinalysis and found to be positive for drug use. You had demonstrated yourself to be an immature and irresponsible individual that continuously demanded excessive supervision and management time. Your continued involvement with drugs was a further indication of a character whose quality did not meet the standards of the Marine Corps. On 11 October 1984, the Legal Officer conducted a Preliminary Inquiry to Determine your Fitness for Retention/Discharge, and recommended you receive an other than honorable (OTH) discharge. On 17 October 1984, your case was forwarded to the separation authority recommending your separation from the Marine Corps with an OTH discharge. On 1 November 1984, a staff judge advocate reviewed your case and found it to be sufficient in law and fact. On 2 November 1984, the separation authority directed your OTH discharge due to a pattern of misconduct. On 28 November 1984, you were discharged from the Marine Corps 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 objective evidence supports your contention you incurred PTSD during the time of your military service, and that some of your in-service misconduct could be attributed to your diagnosis of PTSD.

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 an excellent Marine in your first year of your enlistment, and received a meritorious medal of Operation Team Spirit in Korea. Additionally, that when you were transferred from Infantry to the Air Wing, you were singled out and discriminated against, and started using marijuana after your NJP due to the stress of continued harassment, and experience of confinement to the Correctional Custody Unit. 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 two NJPs, the fact that you were counseled on more than one occasion regarding your performance and conduct, understanding of the Marine Corps drug policy, and your continued drug use of drugs outweighed these mitigating factors. Further, that Board noted that you did not describe any traumatic events, psychological symptoms, or behavioral changes indicative of a mental health condition in your application. Additionally, the Board concurred with the AO that based on the available evidence, that some of your in-service misconduct could be attributed to your diagnosis of PTSD. 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,

11/2/2021

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Executive Director

Signed by █