



**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: 3492-21  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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.

A three-member panel of the Board, sitting in executive session, considered your application on 22 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). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 29 September 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 26 March 1991. On 10 November 1993, you received nonjudicial punishment (NJP) for 30 days of unauthorized absence, missing ship's movement, and failure to obey an order. On 3 December 1993, you were notified of administrative discharge action for misconduct due to commission of a serious offense. After being advised of your procedural rights, you elected to have your case heard before an administrative discharge board (ADB). On 17 December 1993, the ADB found that you did

commit misconduct due to commission of a serious offense, and recommended that you receive a general (under honorable conditions) discharge from the Navy. On 29 December 1993, your commanding officer forwarded your case to the separation authority concurring with the ADB's findings and recommendation that you receive a general (under honorable conditions) discharge. On 14 January 1994, the separation authority directed that you receive a general (under honorable conditions) discharge by reason of misconduct due to commission of a serious offense. On 24 January 1994, you were discharged from the Navy with a general (under honorable conditions) 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 was suffering a mental health condition during your service. The AO noted that though you carry a post-discharge diagnosis of Major Depression, the preponderance of objective evidence contemporary to your military service failed to establish you exhibited psychological symptoms or behavioral changes indicative of a mental health condition at the time of your military service, or that your in-service misconduct could be attributed to an unfitting 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 your discharge was improper and inequitable, that after your discharge, you experienced inequities such as, the denial of your Montgomery GI educational benefits, employment opportunities, and home and vehicle insurance for veterans. You stated that the reason you received your discharge was because of your refusal to return to █ after being previously stationed there and experiencing severe depression due to the insurgence of Haitian refugees seeking asylum to the base after the coup of the President in 1991. 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 NJP for very serious offenses outweighed these mitigating factors. Additionally, the Board concurred with the AO that though you carry a post-discharge diagnosis of Major Depression, the preponderance of objective evidence contemporary to your military service failed to establish you exhibited psychological symptoms or behavioral changes indicative of a mental health condition at the time of your military service, or that your in-service misconduct could be attributed to an unfitting 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,

12/4/2021

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Executive Director

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