



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: 3829-21
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.

A three-member panel of the Board, sitting in executive session, considered your application on 8 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 30 September 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 9 December 1986. On 13 January 1988, you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totaling four days. On 19 February 1988, you were counseled regarding your misconduct and warned that further deficiencies in your performance and/or conduct could result in administrative discharge action. On 27 October 1988, you received NJP for 182 days of UA, and two specifications of missing ship's movement. On 28 November 1988, you were notified of administrative discharge action by reason of misconduct due to commission of a serious offense. After being advised of your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. On 1 December 1988, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable

(OTH) discharge from the Navy. On 6 December 1988, the separation authority directed that you receive an OTH discharge for misconduct due to commission of a serious offense. On 16 December 1988, you were discharged from the Navy 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 a mental health condition during your service. The AO noted that based on the available evidence, the preponderance of objective evidence failed to establish you manifested 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: (a) you enlisted in the Navy at 18 years old after suffering from unaddressed childhood trauma and undiagnosed Attention-deficit Disorder (ADD); (b) you have dealt with your issues through therapy and feel that your discharge status should be upgraded as your decisions were made from an unhealthy and immature mental state; and (c) your life and adult decisions reflect that of an upstanding American and you would like your military service to reflect the same. 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, one for a very lengthy period of UA, and the fact that you were, counseled and warned of the consequences of further misconduct after your first NJP outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the available evidence, the preponderance of objective evidence failed to establish that you manifested 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,

11/17/2021

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Executive Director

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