



**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. 3960-21  
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 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, sitting in executive session, considered your application on 13 December 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 SECDEF Memo of 3 Sep 14 (Hagel Memo); PDUSD Memo of 24 Feb 16 (Carson Memo); USD Memo of 25 Aug 17 (Kurta Memo); and USECDEF Memo of 25 Jul 2018 (Wilkie memo). Additionally, the Board considered the advisory opinion of 7 October 2021 by a qualified mental health professional.

You enlisted in the Navy and commenced a period of active duty on 26 March 1985.

On 4 October 1986, you were stabbed and underwent a surgery at a civilian hospital in █. Your medical record stated that you incurred three stab wounds to your chest during a robbery attempt, which resulted in two hospitalizations and a secondary infection.

On 10 July 1987, you received non-judicial punishment for a period of unauthorized absence, drunken driving, and being drunk on duty. After your non-judicial punishment, you were issued a formal Page 13 counseling/warning.

On 5 April 1988, you commenced a period of unauthorized absence, surrendering on 7 April 1988. On 3 May 1988, you commenced another period of unauthorized absence, surrendering on

28 August 1988. On 15 December 1988, you were convicted by a special court-martial for unauthorized absence and missing movement. Your sentence included three months of confinement, forfeitures, and reduction in rate to E-1, but it did not include a bad conduct discharge.

On 6 February 1989, you were notified of the initiation of administrative discharge processing and his rights in connection therewith. You waived your right to an administrative board.

On 21 February 1989, your commanding officer recommended that you be discharged with an other than honorable characterization of service. On 16 March 1989, the Chief of Naval Personnel (CNP) recommended to the Assistant Secretary of the Navy Manpower and Reserve Affairs (ASN (M&RA)) that you be discharged with an other than honorable characterization of service. On 17 March 1989, ASN (M&RA) concurred with the recommendation of CNP. On 29 March 1989, the discharge authority directed that you be discharged with an other than honorable characterization of service, and on 7 April 1989 you were so discharged.

In your petition, you contend that you suffered from Post-Traumatic Stress Disorder (PTSD) as a result of the stabbing that occurred while you were on active duty. You included medical records with your petition, which were reviewed in connection with the preparation of the advisory opinion.

In connection with your assertion that your misconduct should be mitigated by a mental health condition, including PTSD, the Board requested and reviewed the advisory opinion. According to the advisory opinion, in part:

In his current request for review, the Petitioner submitted a personal statement that he has been diagnosed with PTSD secondary to the stabbing he incurred during military service, but no records were submitted from the provider referenced. Documentation from his post-service medical provider noted that the Petitioner continues to experience physical symptoms, including chronic pain and difficulty taking deep breaths, which 'makes him irritable and can adversely affect his personality.' The Petitioner also submitted portions of his service medical record and a letter of endorsement attesting to his character. No additional records were available for review.

The Petitioner's service record provides evidence of an in-service traumatic event. His continued experience of chronic pain secondary to this injury could result in a secondary mental health condition. However, based on the available evidence, there is insufficient evidence of a post-discharge diagnosis of PTSD or other mental health condition. The complete mental health record is required to render an alternate opinion. Should the Petitioner choose to submit additional records, they will be reviewed in the context of his claims.

The advisory opinion concluded, "it is my considered medical opinion that there is insufficient evidence of a diagnosis of PTSD or other mental health condition, or that his misconduct could be attributed to a 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 SECDEF Memo of 3 Sep 14 (Hagel Memo); PDUSD Memo of 24 Feb 16 (Carson Memo); USD Memo of 25 Aug 17 (Kurta Memo); and USECDEF Memo of 25 Jul 2018 (Wilkie memo), as well as the advisory opinion. These included, but were not limited to, your desire to upgrade your discharge character of service, your contentions relating to your mental health condition, including PTSD, and all of your assertions as previously discussed. Based upon its review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concurred with advisory opinion, finding that you failed to establish that your misconduct could be attributed to a mental health condition. The Board determined that the misconduct as evidenced by your special court-martial conviction that involved a lengthy period of unauthorized absence and missing movement was significant. The Board also observed that you had a prior non-judicial punishment during your enlistment for unauthorized absence, drunken driving, and being drunk while on duty. Accordingly, the Board determined that your other than honorable characterization of service was appropriately awarded, and that the totality of the circumstances do not warrant an upgrade or any other 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,

2/7/2022

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Executive Director

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