



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

█
Docket No: 4138-21
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 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 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 3 April 1990. On 7 October 1991, you received nonjudicial punishment (NJP) for seven days of unauthorized absence (UA). Additionally, you were counseled and warned that further misconduct could result in administrative discharge action. On 25 October 1991, you received NJP for a brief period of UA. On 29 October 1991, you were counseled concerning UA and warned that further misconduct could result in administrative discharge action. On 27 July 1992, you were the subject of a psychiatric evaluation due to a suicidal ideation. You were diagnosed with an Adjustment Disorder with Mixed Emotional Fitness and Anti-Social/Borderline Personality Disorder – Severe. It was recommended that you be administratively separated from the Navy. On 3 August 1992, you received NJP for seven days of UA, missing ship's movement, and failure to obey an order. On 21 August 1992, you were notified of administrative discharge action

due to commission of a serious offense and a pattern of misconduct. After you were advised of your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. Your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 9 September 1992, the separation authority directed your discharge from the Navy due to misconduct. On 14 September 1992, 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 from a mental health condition during your service. The AO noted that based on the current available evidence, there is insufficient evidence that you incurred a mental health condition during your military service, and there is insufficient evidence that your misconduct should 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 the Wilkie Memo. These included, but were not limited to your assertions that: (a) an in-service medical provider diagnosed you with two different mental disorders with no treatment plan; and (b) after being diagnosed, you were never given proper treatment to deal with the severe symptoms that were presented, and if you were, given the proper treatment, it would have been possible for you to complete your full term of enlistment. Additionally, the Board noted that you provided a medical psychologist opinion that opined that you should have been medically discharged for a condition you were diagnosed with while on active duty, and the military choose to ignore the opinion and decided to discharge you with an OTH discharge, and failed in providing medical treatment. 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 three NJPs, one of which was for a serious offense of missing ship's movement, and the fact that you were counseled and warned of the consequences of further misconduct after your first NJP outweighed these mitigating factors. The Board also concurred with the AO that based on the current available evidence, there is insufficient evidence that you incurred a mental health condition during your military service, and there is insufficient evidence that your misconduct should be attributed to a 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,

12/20/2021



Executive Director

Signed by: █