



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: 4204-21
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 20 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 27 October 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 7 June 2004. On 6 December 2004, you were counseled concerning your failure to maintain control of your military identification card. You were warned that failure to take corrective action could result in administrative discharge action. On 10 March 2005, you received nonjudicial punishment (NJP) for two specifications of failing to go to your appointed place of duty totaling 48 days. On 18 August 2005, you were counseled concerning two specifications of being absent from your appointed place of duty. You were warned that failure to take corrective action could result in administrative discharge action. On 8 September 2005, you received NJP and were counseled for two briefs periods of unauthorized absence. On 23 September 2005, you were counseled concerning your failure to maintain control of your military identification card. Again, you were counseled and warned that failure to take corrective action could result in administrative

discharge action. On 5 October 2005, you were notified of administrative discharge action due to a pattern of misconduct and misconduct due to commission of a serious offense. After you were afforded your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. Subsequently, your case was forwarded to the separation authority with the recommendation that you received an other than honorable (OTH) discharge. On 18 October 2005, a staff judge advocate reviewed your case finding it to be sufficient in law and fact, and on 19 October 2005, the separation authority directed your OTH discharge due to misconduct. On 25 October 2005, 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 a mental health condition and Post-Traumatic Stress Disorder (PTSD) during your service. The AO noted that based on the current available evidence, there is insufficient evidence that you may have incurred a mental health condition during military service, and there is insufficient evidence that your 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 the Wilkie Memo. These included, but were not limited to your assertions that: (a) you suffered a mental breakdown due to family issues that resulted in you going AWOL; and (b) you have lived with the shame of not successfully completing your enlisted service time and you cannot reenlist do to disqualifying medical conditions, and you wish for the chance to right some wrong from your past. 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, and the fact that you were counseled and warned, on more than one occasion, of the consequences of further deficiencies in your performance and or conduct, outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the current available evidence, there is insufficient evidence that you may have incurred a mental health condition during military service, and there is insufficient evidence that your misconduct could 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,

1/11/2022

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Executive Director

Signed by: █