



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: 4216-21
Ref: Signature Date

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Dear █:

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 6 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 19 October 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 4 June 1980. On 16 February 1982, you received nonjudicial punishment (NJP) for three days of unauthorized absence (UA), making a false official statement, and two specifications of disobeying a lawful order. On 28 June 1982, a Drug and Alcohol Abatement Officer interviewed you, and opined that your only drug use had been marijuana, and that you should be assigned to a Drug Instruction and Evaluation Course if not discharged. On 1 April 1982, you received NJP for four

specifications of disobeying a lawful order, failure to go at the time prescribed to your appointed place of duty, and drinking alcohol while in a duty status. On 19 April 1982, it was reported that you had tested positive for marijuana use. On 18 and 25 May 1982, you received NJP for wrongful use of marijuana, four specifications of being absent from your appointed place of duty, 27 days of UA, and breaking restriction. On 8 July 1982, your case was forwarded to the separation authority with the recommendation that you be separated from the Marine Corps. On 21 July 1982, you were notified of administrative discharge action due to frequent involvement of a discreditable nature with military authorities, and that you receive an other than honorable discharge. After being advised of your procedural rights, you elected to waive your right to have your case considered by an administrative discharge board. On 30 July 1982, a staff judge advocate reviewed your case and found it to be sufficient in law and fact. On 6 August 1982, you were discharged from the Marine Corps with an OTH characterization of service due to misconduct. Your original service record was incomplete and did not contain all of the documentation pertaining to your separation from the Marine Corps. Absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith.

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 Post-Traumatic Stress Disorder (PTSD) 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 to attribute your misconduct 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 your discharge has been holding you back for so many years, you deserve an honorable discharge, and you were told that you would be getting an honorable discharge, but when you got home, you received a lesser discharge. 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 four NJPs, and drug and alcohol abuse outweighed these mitigating factors. Additionally, the Board 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 to attribute your misconduct 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

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Executive Director

Signed by: █