



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: 4383-21
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.

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 29 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 8 October 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 1 October 1987. On 10 March 1989, you received nonjudicial punishment (NJP) for two specifications of unauthorized absence (UA) and disobeying a lawful order. Additionally, you were counseled regarding your decline in professional, as well as personal performance. You were warned that further deficiencies in your performance, and or conduct could result in administrative discharge action. During the period from 4 August 1989 to 1 March 1994, you received four NJPs for going from your appointed

place of duty, four specifications of UA, four specifications of breaking restriction, three specifications of false or unauthorized pass offenses, and being absent without leave. Further, you were counseled regarding UA and warned that further deficiencies in your performance or conduct could result in administrative discharge action. On 31 March 1994, you were notified of administrative discharge action due to a pattern of misconduct. After being afforded your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. On 4 April 1994, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 11 April 1994, the separation authority concurred and directed that you receive an OTH discharge due to a pattern of misconduct. On 15 April 1994, 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 Post-Traumatic Stress Disorder (PTSD) during your service. The AO noted that based on the current available evidence, there is insufficient evidence that you experienced an unfitting mental health condition during your military service, or that your misconduct was mitigated by 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 statement that you had completed three back-to-back █ deployments, had a brand new wife and child, and felt your division officer thought you did not want to be in the service because you were late for work a few times. 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 five NJPs, and the fact that you were warned of the consequences of further misconduct on more than one occasion outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the current available evidence, there is insufficient evidence that you experienced an unfitting mental health condition during your military service, or that your misconduct was mitigated by 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,

12/14/2021

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Executive Director
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