



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: 4392-21
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 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 22 October 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 4 August 1978. During the period from 4 October 1979 to 8 May 1980, you received four nonjudicial punishments (NJPs) for 14 periods of unauthorized absence (UA). On 13 May 1980, you were counseled concerning your deficiencies in your military behavior. You were warned that further misconduct could result in administrative discharge action. During the period from 12 June 1980 to 26 March 1981, you received three additional NJPs for two specifications of disobeying a lawful order,

11 specifications of failing to go to your appointed place of duty, two specifications of UA totaling nine days, and missing ship's movement. On 30 March 1981, you were notified of administrative discharge action by reason of frequent involvement with military authorities. At that time, after being afforded your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board (ADB), and submitted a personal statement on your behalf. On 31 March 1981, you submitted a statement concerning your administrative discharge processing, and your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 9 April 1981, the separation authority directed that you receive an OTH discharge due to misconduct. On 13 April 1981, 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 was suffering from a mental health condition during your service. The AO noted that based on the available evidence, the preponderance of objective evidence failed to establish you suffered from an unfitting mental health condition at the time of your military service, or that your in-service misconduct could be attributed to an unfitting mental health condition.

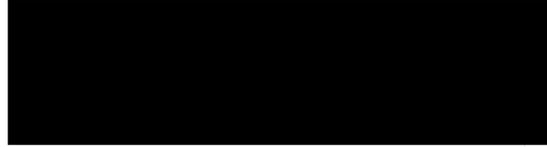
The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your assertions that it us your belief and experience that you were treated unfairly. You incurred a major injustice, and a life changing dis-service was placed on you due to subjective interpretations from your military leaders. You further state that this resulted in severe feelings of depression, anxiety, hopelessness, helplessness, anhedonia, isolation, lack of motivation, angry outbursts, and use of alcohol and other drugs. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to arrant relief. Specifically, the Board determined that your misconduct, as evidenced by your seven NJPs, and the fact that you were counseled and warned, after your fourth NJP, 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 available evidence, the preponderance of objective evidence failed to establish you suffered from an unfitting mental health condition at the time of your military service, or that your in-service misconduct could be attributed to 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,

1/11/2022



Executive Director

