



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: 4539-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session on 14 March 2022. 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). Additionally, the Board considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to you.

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.

You contend that; (1) you were not treated with the same opportunities as other shipmates, (2) you were a top performing sailor until you returned from the █, (3) if one sailor was offered treatment, all sailors should have been offered treatment, (4) you were discharged with an addiction you had to deal with on your own although you asked for help, (5) you do not know why your command did not want to help you as you were a top sailor in your division, (6) you

could better understand your discharge if you were not a good performing sailor, and (7) you gave your best and when you needed the Navy's help they turned their back on you. The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations.

As part of the Board's review, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertions noted above. The AO noted, in service, you were diagnosed with an alcohol use disorder. The AO further noted, unfortunately, you did not provide any post-service medical evidence in support of your claim. Lastly, the AO noted your statement does not provide sufficient detail to determine a nexus with your misconduct and additional records are required to render an alternate opinion. As a result, it concluded that there is insufficient evidence that your misconduct could be attributed to PTSD. On 1 March 2022, you submitted a statement and letter from a mental health counselor in rebuttal to the AO. However, the AO remained unchanged based on a determination there is insufficient evidence that you may have incurred PTSD during your military service.

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 desire to upgrade your discharge and your contentions noted above. Based upon this review, the Board concluded these potential mitigating factors were insufficient to warrant relief. Specifically, the Board concurred with the AO and determined that you were appropriately discharged for your drug related misconduct and awarded a characterization of service that documents your conduct was a significant departure from that expected from a Sailor. Accordingly, the Board determined insufficient evidence exists to merit a change to your record.

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,

3/28/2022

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Executive Director

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