



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: 4846-21
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 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.

Although your application was not filed in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 14 February 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). The Board also considered an advisory opinion (AO) from a qualified mental health professional dated 30 November 2021 which was previously provided to you.

You enlisted in the Army National Guard and began a period of active duty on 6 January 1958. On 30 July 1958, you were honorably discharged from service. On 31 July 1958, you enlisted in the Navy and began a period of active duty. On 5 February 1959, a certificate of service from the █ National indicated that you were still attached to the █. On 4 November 1960, you received nonjudicial punishment (NJP) for creating a disturbance in the barracks, and failure to report to appointed place of duty. On 10 March 1961, you received a second NJP for disorderly conduct in the barracks. On 7 April 1961, you received a third NJP for attempting to carry one open can of beer from the "103 Club" by concealing it inside your jacket.

On 21 June 1963, you were discharged with a general, under honorable conditions (GEN) discharge characterization of service by reason of being transferred to the naval reserves and released from inactive duty. On 5 January 1964, you were discharged from the naval reserves with a GEN discharge characterization of service by reason of completion of required time in service.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 30 November 2021. The AO determined that there is no evidence in your service record indicating that you were diagnosed with a mental health condition. The AO indicates that there is behavioral evidence of an alcohol use disorder while in service, and that there is also evidence of unusual transfers between services, which require clarification to determine the validity of your report. Post-service, you contended that you were diagnosed with PTSD and depression, but the AO indicates that there is no records available to provide context for your claims. Further, the AO determined that additional information (e.g., complete VA mental health record detailing your diagnosis, symptoms, and their specific link to your misconduct) is required to render an alternate opinion. The AO concluded that based on the current available evidence, there is insufficient evidence that you incurred PTSD or another unfitting mental health condition during military service, and there is insufficient evidence that your misconduct could be attributed to PTSD or another unfitting mental health condition. The AO was provided to you on 1 December 2021 and you were given 30 days in which to respond. When you did not respond after 30 days, your case was submitted to the Board for review.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that: (a) you suffered from depression, and feeling terrified as a result of injuries sustained during an electric shock incident; and (b) you began to self-medicate with alcohol, which led you to other problems such as irritability, aggravation towards other shipmates, family problems, severe depression, and a lack of performance for advancement in your military career. Even under the liberal consideration standard, the Board discerned no procedural defect, impropriety, or inequity in your discharge. Unfortunately, the Board, relying on the AO and applying liberal consideration, did not find evidence of an error or injustice that warrants upgrading your discharge characterization of service. Further, the Board noted you did not provide documentation or advocacy letters for consideration and concluded there was insufficient evidence to warrant upgrading your father's character of service based on clemency.

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 the contentions discussed above. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidence of your NJPs, outweighed these mitigating factors. 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 the 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, _____

3/2/2022

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Executive Director

Signed by: █