



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: 5019-21
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.

Although you did not file your application in a timely manner, the statute of limitations 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 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 this 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 a 30 November 2021 advisory opinion (AO) furnished by a qualified mental health provider.

You enlisted in the Navy and commenced a period of active duty on 3 March 1976 and completed an honorable period of service on 2 March 1980. You reenlisted on 24 June 1980 and completed an honorable period of service on 20 April 1983. You reenlisted in the Navy again on 21 April 1983. In February 1985, you completed a course of in-patient alcohol rehabilitation treatment. On 31 July 1987, you received nonjudicial punishment for assault. You were evaluated due to your alcohol use, and you were determined to be dependent on alcohol. On 11 January 1988, you commenced a period of unauthorized absence, and in being absent, you missed your ship's movement. You surrendered to naval authorities on 9 February 1988. On 12 February 1988, you received nonjudicial punishment for the foregoing period of unauthorized absence and for missing ship's movement. On 12 February 1988, you were notified of the

initiation of administrative separation processing, and your rights in connection therewith. You waived your right to an administrative board. On 17 February 1988, your commanding officer recommended that you be discharged with an other than honorable characterization of service. On 22 February 1988, the discharge authority directed that you be discharged with an other than honorable characterization of service. On 26 February 1988, you declined the offer to receive in-patient alcohol rehabilitation treatment, and on the same day you were discharged with an other than honorable characterization of service.

In 1988, you filed an application with the Naval Discharge Review Board (NDRB) seeking an upgrade to your discharge characterization. In your application, you contended that your discharge was too harsh based on your prior good service. On 1 June 1989, the NDRB denied your application. In 1996, you filed a petition with this Board seeking an upgrade to your discharge characterization contending that you became sober and work as an alcohol rehabilitation counselor. On 20 August 1996, this Board granted you partial relief and upgraded your discharge characterization to general (under honorable conditions). In granting relief, this Board noted that you had an extensive background of using alcohol while in the Navy, and that your misconduct only occurred after 1987, when you were on sea duty, and it appeared you did not have the support system in place to assist with your alcohol misuse.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. You contend in your current petition that you suffered events on active duty that resulted in you receiving a PTSD diagnosis, which mitigates your misconduct while on active duty. As a result of these events, your depression was aggravated and you started to drink excessively. You further stated that you previously petitioned this Board for an upgrade and your discharge was upgraded to general, and that you did not receive an upgrade to honorable because you did not provide evidence of PTSD, and now, your petition should be reviewed in the context of your PTSD and the new applicable memoranda.

In connection with your assertion that you suffered from PTSD, the Board requested, and reviewed, the AO. The AO reviewed your service record as well as your petition and the matters that you submitted. According to the AO:

Petitioner's in-service records revealed an enlistment physical examination in which the Petitioner described himself in "good health" and did not endorse any history of mental health symptoms or conditions or substance abuse. Available records indicated multiple evaluations for Alcohol Use Disorder with in-service Level III inpatient alcohol rehabilitation as well as outpatient aftercare programs. His service record showed two periods of honorable service with good performance evaluations through December 1985, before a steady decline in performance and increasing misconduct. His increasing substance abuse and misconduct behaviors occurred after the reported traumatic events.

His personal statement and post-discharge clinical records contained consistently documented in-service traumatic events and subsequent behavioral markers consistent with developing PTSD. His misconduct was consistent with

maladaptive behavioral patterns seen in PTSD patients to include substance abuse, avoidance behaviors (UA/missing ship movement), irritability and emotional lability (assault), and social dysfunction (problems with relationships with peers, superiors, and romantic partners).

The AO concluded, “based on the available evidence, it is my considered medical opinion there was sufficient indirect evidence of psychological/behavioral markers to support Petitioner’s contention of PTSD incurred during his military service, and that his in-service misconduct could be attributed to psychological/behavioral changes from PTSD.”

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. With respect to your contention relating to a mental health condition, the Board agreed with the findings of the AO. The Board, however, determined that your previous upgrade to a general (under honorable conditions) characterization of service was appropriate under the circumstances and remains appropriate even in light of the materials set forth in your current petition. In reaching its decision, the Board considered your receipt of nonjudicial punishment on two occasions for offenses including assault, a lengthy unauthorized absence, and missing ship’s movement, and balanced these factors with the finding of AO, viewed in light of the fact that you had previously been granted relief to a level of discharge that was under honorable conditions, 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,

1/13/2022

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Executive Director
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