



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: 5051-21
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 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 31 January 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 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 also considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

You enlisted in the U.S. Navy and began a period of active duty on 12 January 1987. On 16 January 1987, you were briefed on the Navy's drug and alcohol abuse policy. On 14 August 1987, you received your first nonjudicial punishment (NJP) for three specifications of assault, drunk and disorderly conduct, and communicating a threat. On 9 October 1987, you received a second NJP for unauthorized absence (UA), willfully disobeying a superior commissioned officer, and failure to obey an order or regulation. You were subsequently counseled regarding an adverse evaluation for the period of 21 December 1990 through 12 April 1991. You received

three additional NJPs for specifications of UA, incapacitation to assume duties as a result of previous overindulgence in intoxication of liquor, two specifications of false official statement, three specifications of failure to obey a lawful order, dereliction in the performance of duties and breaking restriction. After your third NJP you were issued an administrative counseling retaining you in the Navy but acknowledging your deficiencies and advising you that further misconduct may result in disciplinary action and or in processing for administrative discharge. This was followed by a separate administrative counseling again retaining you in the Navy and specific to your first documented alcohol abuse incident. On 26 August 1991, you were directed to attend three (3) Alcohol Anonymous (AA) meetings per week. Three days later you were diagnosed as physically and psychologically alcohol dependent and recommended to attend Level III inpatient alcohol rehabilitation treatment. On 30 August 1991, you refused inpatient treatment at a Veterans Administration hospital.

On 6 September 1991, you were notified of your pending administrative separation due to pattern of misconduct (POM) and commission of a serious offense (COSO), at which time, you elected your right to obtain copies of documents which were to be forwarded to Commander, Naval Personnel Command and to have your case heard at an administrative discharge board (ADB). However, on 10 September 1991, you waived said ADB. On 11 September 1991, you were notified of the commanding officer's (CO) intent to recommend to the separation authority that you be discharged with an other than honorable (OTH) characterization of discharge for POM, COSO, and alcohol abuse rehabilitation failure adding, "she is not recommended for future service in any military organization." On 10 October 1991, the separation authority directed you be discharged with an OTH for COSO and on 10 October 1991, you were so discharged.

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 that you were sexually harassed during your enlistment which resulted in your PTSD. The AO noted throughout your military service, disciplinary actions and administrative processing there were no indications of an unfitting mental health condition, other than alcohol use disorder, requiring referral to mental health resources. The AO opined, based on available evidence, there was insufficient objective evidence of psychological/behavioral markers to support your contention of sexual harassment/assault, that your PTSD incurred during military service, or that your misconduct could be attributed to psychological/behavioral changes from sexual harassment, assault or PTSD.

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 contentions noted above. 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. Additionally, the Board noted you did not provide a statement, advocacy letters, or post-service documents to be considered for clemency purposes. 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 5 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 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,

2/17/2022

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Executive Director

Signed by: █