

## DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS 701 S. COURTHOUSE ROAD, SUITE 1001 ARLINGTON, VA 22204-2490

> Docket No: 5217-21 Ref: Signature Date



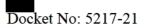
## Dear Petitioner:

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 7 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).

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 qualified mental health professional reviewed your request for correction to your record and provided the Board with an advisory opinion (AO) regarding your assertion that: (1) you have complied with the only stipulation upon your separation as explained by your legal officer, which was to complete 10 years post-service without alcohol related incidents; (2) you were awarded a Good Conduct Medal; (3) you were offered reenlistment upon separation; (4) to date,



you have not had further alcohol related incidents; (5) you no longer consume alcohol; (6) you have dealt with your emotional and physical pain and suffering; (7) you had no reason for a change until now; (8) you have "DMV" credit; (9) you volunteered for combat replacement company during Operation Desert Storm while temporarily assigned duties with ; (10) you are trying to help your family; and (11) you have financial hardship. The AO opined, there is insufficient evidence that you incurred an unfitting mental health condition during military service or that your 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 desire to upgrade your discharge based on 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, no discharge is automatically upgraded due to the passage of time and/or an individual's good behavior after discharge. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. Lastly, the Board considered the AO furnished by a qualified mental health provider. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined, despite your misconduct and non-compliance with your aftercare program, you were issued a general (under honorable conditions) characterization of service, and considers this appropriate and just.

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.

