



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: 5912-21
4966-20
5233-17
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. A three-member panel of the Board, sitting in executive session, considered your application on 16 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 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). The Board also considered an advisory opinion (AO) from a qualified mental health professional dated 18 January 2022, which was previously provided to you.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 18 January 2022. The AO noted that in service, you were diagnosed with an alcohol use disorder. Post-service, the Department of Veterans Affairs (VA) has determined service connection for PTSD. While it is reasonable that your alcohol use would have increased following a traumatic incident, there are unfortunate discrepancies in the record that make it difficult to attribute all misconduct to symptoms of PTSD. Additionally, you were experiencing problematic alcohol use prior to the traumatic incident, as reflected in two formal notations of public intoxication in your service record. The AO concluded by opining that there

is post-service evidence that you may have incurred PTSD during military service. However, there is insufficient evidence that all of your misconduct could be attributed to PTSD.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your statement that because of new evidence presented you feel that a change is warranted. Unfortunately, after careful consideration of the AO, your submission of supporting documentation, and applying liberal consideration, the Board did not find an error or injustice that warrants granting clemency in the form of upgrading your characterization of service or changing your narrative reason for separation.

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 statement as previously discussed and your desire to upgrade your discharge character of service and change your narrative reason for separation. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by multiple administrative counselings concerning your performance/conduct, four NJPs, SCM conviction, and subsequent separation at your request to avoid trial by court-martial, outweighed these mitigating factors. The Board further concluded that the discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct as evidenced by your separation at your request to avoid trial by court-martial. 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,

3/24/2022

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Executive Director

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