



**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: 6053-21  
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 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.

The Board determined that your personal appearance via video or telephonic, 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 three-member panel of the Board, sitting in executive session, considered your application on 7 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). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 10 December 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 23 April 1987. On 24 February 1988, you received nonjudicial punishment (NJP) for 105 days of unauthorized absence. On 1 June 1988, you were convicted by special court-martial (SPCM) of attempting to willfully damage by driving your vehicle into a building, military property, disobeying a lawful order to leave a room in the barracks, operating a motor vehicle while impaired by alcohol in a reckless manner, assault by striking another Marine repeatedly in the face and torso and dragging

her in the street, and two specifications of communicating a threat. You were sentenced to confinement at hard labor, a forfeiture of pay, and a bad conduct discharge (BCD). You received your BCD on 20 October 1989.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering from a mental health condition during your service. The AO noted that based on the available evidence, there is insufficient evidence that you incurred an unfitting mental health condition during military service and there is insufficient evidence 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 assertions that: (a) you attempted suicide while on active duty and were placed on a 96-hour observation hold handcuffed to a bed; and (b) you were sent for evaluation and court-martialed, but were never properly evaluated and diagnosed with a mental health disorder, and you were not only discharged with a BCD, they also stripped you of two years out of the four years you served. 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 NJP and SPCM conviction for very serious offenses outweighed these mitigating factors. The Board also concurred with the AO that based on the available evidence, there is insufficient evidence that you incurred an unfitting mental health condition during military service and there is insufficient evidence that your misconduct could be attributed to an unfitting mental health condition. 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,

2/11/2022

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Executive Director  
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