



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: 6351-21
0061-20
5687-12
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.

A three-member panel of the Board, sitting in executive session, considered your application on 11 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 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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 the advisory opinion (AO) furnished by a qualified mental health provider which was previously provided to you, the documents you submitted in rebuttal, and a subsequent AO.

You enlisted and began a period of active duty in the Marine Corps on 27 July 1979. On 9 January 1980 you received nonjudicial punishment (NJP) for two specifications of violating Article 91, Uniform Code of Military Justice (UCMJ), for disrespect to a noncommissioned officer and disobeying a lawful order. You received a second NJP on 15 April 1980 for disobeying a lawful order in violation of Article 92, UCMJ. You were convicted by summary court martial (SCM) on 28 May 1980 for violation of Article 86, UCMJ for failure to go to your appointed place of duty. On 4 January 1983 you received a third NJP for failure to go at the time prescribed to your appointed place of duty in violation of Article 86, UCMJ. In February 1983 you were counseled regarding indebtedness. On 10 May 1983 you were convicted by civilian authorities of endangering a child and corporal injury of your wife and child. You were sentenced to four years in an

institution for men. You were subsequently notified of administrative processing by reason of misconduct due to civilian conviction and waived your procedural right to request an administrative discharge board. You were discharged on 18 January 1984 with an other than honorable characterization of service.

You contend that you experienced abuse, psychological trauma, sexual harassment, racism, prejudice, and nepotism that caused you to suffer from undiagnosed PTSD, and two concussions, among other health issues. You state these experiences resulted in your discharge due to events related to your paranoid schizophrenia breakdown and civilian prosecution. You further contend your chain of command was not supportive of your efforts to care for your pregnant wife and there were procedural errors in your case because you were separated due to a civilian conviction.

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 and desire to upgrade your discharge. The Board also relied on the AO in making its determination. The AO noted that while it is possible that some of your misconduct could be related to discriminatory judicial practices of your superiors, there is insufficient evidence of your purported trauma to establish a nexus with your misconduct. Additionally, it is difficult to attribute your civilian conviction and financial mismanagement to military harassment or PTSD symptoms. Consequently, the AO concluded there is limited post-service evidence that you may have incurred PTSD during military service, but there is insufficient evidence that your misconduct could be attributed to PTSD. Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your three NJPs, SCM, civilian conviction, and subsequent administrative separation processing, 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,

3/2/2022

[REDACTED]

Executive Director

[REDACTED]