



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: 6476-21
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.

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.

You enlisted in the U.S. Navy and began a period of active duty on 13 June 2019. On 1 July 2019, you were diagnosed with an adjustment disorder with depressed mood which existed prior to service (EPTS). On 10 July 2019, you were notified of your pending administrative separation due to erroneous enlistment, at which time, you waived all of your procedural rights. On 11 July 2019, your commanding officer (CO) recommended you be discharged by reason of erroneous enlistment as evidenced by a physical or mental condition that EPTS. Your CO also recommended you receive a reentry code of RE-4 which would identify you as ineligible for reenlistment adding, “[Petitioner’s] disqualifying psychiatric conditions...affect his potential for performance of expected duties and responsibilities while on active duty and pose a risk if he is retained in the naval service.” On 19 July 2019, you were 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 lied during your psychological exam regarding your suicidal ideations. The AO noted you self-referred for a psychological evaluation and were properly evaluated based on observed behaviors and performance during your period of service, the information you chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician as documented in your service records. The AO opined caution should be taken in considering any change to your reenlistment code that would remove a requirement for a mental health re-evaluation given the evidence of a possible 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 contentions noted above. 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 reentry code was properly and justifiably issued as there is evidence of a pre-existence disorder. 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,

2/15/2022

