



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



Docket No: 6625-21
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.

Although you did not file your application in a timely manner, the statute of limitation 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 23 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 2 March 2022, and your rebuttal response to include supporting documentation.

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 Navy Reserves on 20 December 2002. As part of your enlistment contract, you were required to complete the Non-Prior Service Accession Course (NPSAC) within twelve months of your enlistment. You acknowledged that if you fail to commence the course within

the twelve months of your enlistment, you would be subject to administrative separation from the naval service and not recommended for reenlistment.

On 29 December 2003, you were notified via certified mail of your commanding officer's (CO) intent to recommend you for administrative separation from the Naval Reserve based on your unsatisfactory participation in the naval reserve as evidence by your failure to satisfactorily complete the NPSAC within the required time frame. The notification advised that if separation was approved, the least favorable description of service authorized in your case would be general (under honorable conditions). The notification further advised you of your right to consult with counsel. The notification letter was sent to you via certified mail. However, you failed to respond to the notification, thus waiving your procedural rights. The separation authority directed your administrative separation from the Naval Reserve with a general (under honorable conditions) characterization of service. On 31 January 2004, you were so discharged.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 2 March 2022. The AO noted that you provided new post-service material evidence in support of your claims but was insufficient to establish a nexus with your failure to complete your required training, which resulted in your separation. The AO concluded additional information is required to resolve these discrepancies, and stated that there is post-service evidence that you may have incurred PTSD during your period of affiliation with the Navy Reserve. However, there is insufficient evidence that your failure to complete the training could be attributed to PTSD.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that you were suffering from an undiagnosed mental condition, which was later diagnosed as depression. You further state that your undiagnosed mental condition did not allow you to be able to complete your obligation as a Navy Reservist. For purposes of clemency, the Board does not dispute your post service diagnosis of PTSD; however, the Board concluded there was insufficient evidence to attribute the circumstances leading to your administrative separation to PTSD. Even applying liberal consideration, the Board concluded your conduct warranted your characterization of service based on your failure to complete required training. As a result, 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.

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 as previously discussed, your submission of supporting documentation, and your desire to upgrade your discharge character of service. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief given your unsatisfactory participation in the Naval Reserves as evidenced by your failure to satisfactorily complete training within the required time frame. After careful consideration and applying liberal consideration, the Board did not find an error or injustice that warrants granting relief. Specifically, the Board concluded that your characterization of service remain appropriate in light of your failure to communicate with your

command concerning your inability to fulfill your obligation to complete the NPSAC. Despite evidence that you suffered from a traumatic event, the Board found no reason why you were unable to communicate with your command regarding your training obligations. 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, _____

3/28/2022

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Executive Director

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