



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: 6682-21
Ref: Signature Date

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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 14 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, on 26 November 2021, the Board requested you provide adequate materials or documentation to support your claim of a mental health condition.

You enlisted in the Marine Corps and began a period of active duty on 1 May 1976. On 26 June 1979, you were convicted by special court-martial (SPCM) of two specifications of assault. You were sentenced to confinement at hard labor, a forfeiture of pay, a reduction in paygrade, and a bad conduct discharge (BCD). On 16 August 1979, the convening authority suspended your BCD for the period of your confinement, and one year thereafter. Additionally, your confinement at hard labor, forfeitures, and reduction in paygrade were suspended for the

period of confinement and six months thereafter. On 8 February 1980, you received nonjudicial punishment (NJP) for three days of unauthorized absence. You remained on active duty until 21 August 1980, when you were released from active duty and transferred to the Marine Corps Reserve with a general characterization of service. You were discharged from the Marine Corps on 10 March 1982 with a general characterization of service.

Characterization of service is based in part on conduct marks assigned on a periodic basis. Your conduct average was 3.8. At the time of your service, a conduct average of 4.0 was required to be considered for an honorable characterization of service.

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 PTSD during your service. The AO noted that based on the current 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 statement that: (a) you received a general discharge due to completion of required service, that you are with sincere humility requesting a Pardon, you committed an egregious offense, and were convicted by special court-martial; and (b) you incurred alcohol use disorder during your military service due to alcohol availability and lax policies, which resulted in your poor judgement and misconduct. 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 SPCM, and NJP 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,

2/22/2022

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Executive Director
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