




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

  
Docket No: 6695-21  
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 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 18 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 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.

You enlisted and began a period of active duty in the Navy on 9 September 1982. On 15 July 1983 you received nonjudicial punishment (NJP) for disobeying an order from your superior petty officer not to leave your watch area without proper permission, and disrespect in language and deportment toward two superior petty officers in violation of two specifications of Article 91, Uniform Code of Military Justice (UCMJ). You received a second NJP on 15 March 84 for a two day unauthorized absence (UA) in violation of Article 86, UCMJ. Your third NJP occurred on 17 April 1984 for a 13 day UA in violation of Article 86, UCMJ. On 28 March 1985 you received a fourth NJP for being absent from your appointed place of duty in violation of Article 86, UCMJ. Your final NJP occurred on 3 July 1985 for a six hour and eighteen hour UA, and for disobeying a lawful order in

violation of Articles 86 and 91, UCMJ. On 8 July 1985 you were notified of administrative separation processing by reason of misconduct due to a pattern of misconduct. You waived your procedural rights and were discharged on 29 July 1985 with an other than honorable characterization of service.

You contend that you were “jumped” by four civilians, severely beaten, and suffered several injuries. You state the Navy only offered minimal treatment for the wounds and a short period of rest as a recovery measure from the incident and injuries. You further state that after the incident, your mental health began to deteriorate and you were unwilling or unable to complete your duties. You state this led to your misconduct and discharge. You contend the Navy mistreated you and should have sent you to the hospital.

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, your desire to upgrade your discharge and your post-service accomplishments. The Board also relied on the AO in making its determination. The AO noted in pertinent part that you provided excerpted post-service records indicating service connection for PTSD, but there was insufficient information to establish a nexus with your misconduct, as three of your five NJPs were prior to the injury. Consequently, the AO concluded that there was post-service evidence that you incurred PTSD during military service, however there was 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 five NJPs, 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,

3/7/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]