



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

Docket No: 6773-21  
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 Board waived the statute of limitation 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 25 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 to 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 were afforded an opportunity to submit a rebuttal to the AO, but did not.

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 and began a period of active service on 30 August 2000. On 29 August 2003, you were awarded the Good Conduct Medal after serving for 3 years without incident.

Sometime prior to your initial misconduct, you received [REDACTED] services which document that you reported occupational [REDACTED] from your duties as a [REDACTED]. You also stated your desire to be discharged – in fact, you expressly inquired what role the [REDACTED] department might have in assisting you obtain a discharge. On 7 April 2004, you were absent without authority from your appointed place of duty at Base Security from 0700 – 1045. You subsequently were absent without authority from 8 April 2004 until 12 April 2004, then again from 21 April 2004 until 22 April 2004. On 5 May 2004, you received nonjudicial punishment (NJP) for three specifications of violations of Article 86, unauthorized absence (UA). In spite of receiving administrative counseling that same day advising you of your retention in the Navy but potential administrative discharge for further misconduct, you immediately absented yourself and remained absent until 25 June 2004 when you returned to military authority after having been declared a deserter. You received a second NJP for that period of absence. On 30 August 2004, you received a third NJP for a final period of absence from 20 – 23 August 2004, at which time you were notified of processing for administrative separation for the reason of pattern of misconduct due to your repeated UAs, with the least favorable characterization of service being recommended as General (Under Honorable Conditions).

The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your characterization of service and your contentions that you had perfect conduct until you went absent without leave because you were running from your military/former-military spouse and that you had asked for help but did not receive it and ended up hiding in your house where no one even came to look for you. Because you also contend the [REDACTED] of [REDACTED], [REDACTED], and [REDACTED], either incurred in or aggravated by active military service, the Board also considered the AO, which reviewed your service records and the supporting documents submitted with your request. The AO observed that you had previously claimed physical abuse by your spouse when seeking consideration before the Naval Discharge Review Board (NDRB), which noted that you were in receipt of [REDACTED] prior to your discharge but had not, at any time, reported abuse even in that setting. The AO pointed out that you also claimed being suicidal to the NDRB, but that your [REDACTED] records reflect that you denied being [REDACTED] when seen by [REDACTED] and, instead, expressed a desire for their assistance in obtaining a discharge from the Navy. Further, your in-service mental health records contain no indication that you were not mentally responsible for your conduct or that you should not be held accountable for your actions, and you provided no post-service records for review.

As a result, the Board concurred with the considered clinical opinion of the AO and determined that the preponderance of available, objective evidence failed to establish that you suffered from a mental health condition at the time of your military service or that a mental health condition could mitigate your misconduct. Specifically, the Board determined that the seriousness of your misconduct, as evidenced by your three NJPs that included a change of desertion, outweighed the mitigating factors you presented. 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 the 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 is attached 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,

3/11/2022



Executive Director

Signed by 