



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: 6836-21
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 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 limitations 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 11 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 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, which you provided on 2 February 2022. This rebuttal was reviewed by the medical professional who provided the AO, but did not alter the original opinion.

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 Marine Corps began a period of active service on 22 February 1988 after receiving moral waiver for two prior arrests for assaults and admitted minor pre-service drug use of marijuana only. You were seen for medical care on 3 March 1988, 11 days after beginning

active duty, for observed symptoms of a potential withdrawal from drugs, at which time you reported that you had a history of heavy narcotic drug use which had resulted in placement in drug rehabilitation, that you had previously been confined in prison for armed robbery, and that you had previously been admitted twice to mental hospitals but had been “kicked out” – all of which occurred prior to your enlistment and period of active military service. You informed the health provider that basic training made you feel like you were in prison again, that you would “do just about anything to get out” and that you were “afraid of the rifle and what [you] could do with it.” By that time, you had already refused to train. On 8 March 1988, you were counseled regarding administrative separation for fraudulent enlistment due to the significant drug abuse, mental health, and criminal behavior which you failed to reveal when you applied for enlistment. Your separation was processed and you were discharged on 14 March 1988, 22 days after your initial fraudulent entry, with an uncharacterized entry level separation.

The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your characterization of service, your desire in joining the Marine Corps to be of service to your country and to find camaraderie and positive role models, your admission of past mistakes, and your contriteness in asking to be forgiven. Because you contend a mental health condition 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 your in-service records revealed that you enlisted without disclosing disqualifying prior drug use, substance abuse rehabilitation, and hospital treatment. As a result, the Board 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 which might have mitigated your fraudulent entry; therefore, the Board found no error or injustice that you were processed accordingly for entry level separation.

Based upon the totality of its review, the Board concluded the potentially mitigating factors you submitted were insufficient to warrant relief. Specifically, the Board determined that your misconduct in fraudulently failing to disclose the scope and extent of your disqualifying per-service history 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,

3/3/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]