



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

█
Docket No: 6885-21
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 16 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 an advisory opinion (AO) from a qualified mental health professional dated 29 December 2021, which was previously provided to you.

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 duty on 9 January 1990. During the period from 30 January 1990 to 2 December 1992, you received non-judicial punishment (NJP) on six separate occasions. Your offenses were two periods of unauthorized absence totaling two days, drunk and disorderly conduct, assault, discredit to armed forces by failing to pay a bar tab in

█ false official statement, willful disobedience of a petty officer, failure to obey an order or regulation, drunk driving and missing ship's movement.

On 19 February 1993, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense and misconduct due to pattern of misconduct. You were advised of, and waived your procedural rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an other than honorable (OTH) characterization of service. The SA approved the CO's recommendation and directed your OTH discharge from the Navy by reason of misconduct due to pattern of misconduct. On 13 April 1993, 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 29 December 2021. The AO noted that in-service, you were diagnosed with alcohol use disorder. Unfortunately, you have provided no medical evidence of a post-service mental health diagnosis in support of your claims. Your personal statement does not provide sufficient information to support your contentions and establish a nexus with your misconduct. Additional records are required to render an alternate opinion. The AO concluded by opining that there is insufficient evidence that you may have incurred PTSD or another unfitting mental health condition during your military service. There is insufficient evidence that your misconduct could be attributed to PTSD or another unfitting mental health condition.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contention that you have been diagnosed with mental health issues and receiving Social Security Disability Insurance (SSDI) because of your diagnosis. 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 upgrading your characterization of service or granting clemency in the form of an upgraded 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 contention as previously discussed and your desire to upgrade your discharge character of service and to be issued the █ Liberation Medal. For purposes of clemency consideration, the Board noted your submission of your Social Security Administration Benefit Letter; however, you did not provide supporting documentation describing post-service accomplishments, or advocacy letters. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your repeated misconduct outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined your request concerning an upgrade of your character of service does not merit relief.

In regards to your request to receive the █ Liberation Medal, the Board noted your Certificate of Release or Discharge from Active Duty (DD Form 214) annotates that you were

previously issued the █ Liberation Medal. As a result, there is no action required by this Board.

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,

3/2/2022

█

Executive Director

█