



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

█  
Docket No: 7038-21  
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 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.

A three-member panel of the Board, sitting in executive session, considered your application on 28 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, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 29 November 2021, which was previously provided to you. You were given 30 days in which to submit a response, and when you did not provide a response, your case was submitted to the Board for consideration

You enlisted in the Marine Corps and began a period of active duty on 15 June 1967. On 19 January 1968, you were deployed to Vietnam. On 1 December 1968, you received nonjudicial punishment (NJP) for nine days of unauthorized absence (UA) and the use of disrespectful language. On 5 February 1969, you departed Vietnam after participating in nine combat missions. On 15 September and 3 December 1969, you received NJP for being out of uniform, wrongful possession, with intent to deceive an altered military identification card with improper rank and improper liberty card, and drunk and disorderly conduct. On 23 March 1970, you were convicted by civil authorities of possession of marijuana. On 30 April 1970, you requested an undesirable discharge (UD). On 5 June 1970, your case was forwarded to the separation authority with the recommendation that you receive an UD due to drug abuse. On

24 July 1970, you were convicted by summary court-martial (SCM) of 49 days of UA. On 6 November 1970, you were notified of administrative discharge action and recommended for an undesirable discharge due to unauthorized use and possession of marijuana. After being afforded your procedural rights, you elected to have your case heard before an administrative discharge board (ADB). Your case was forwarded to the separation authority with the recommendation that you receive an undesirable discharge. On 16 December 1970, an ADB recommended that you receive a general discharge. On 30 December 1970, a staff judge advocate found your case to be sufficient in law and fact. On 11 January 1971, the separation authority directed your discharge by reason of unfitness. On 15 January 1971, you were discharged from the Marine Corps with a general characterization of service. Although your original service record was incomplete and did not contain all the documentation pertaining to your separation from the Marine Corps, the Board noted that absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials involved in processing your separation acted in accordance with governing law/policy and in good faith.

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 evidence that you incurred PTSD during military service, but there is insufficient evidence that all of your misconduct could be attributed to PTSD.

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 assertions that you were discharge because of an undiagnosed mental issues from PTSD due to your combat experience in Vietnam, that you were having mental problems due to PTSD at the time of his discharge, and provided Department of Veterans Affairs medical records rating you at 100% disability due to service connected PTSD.

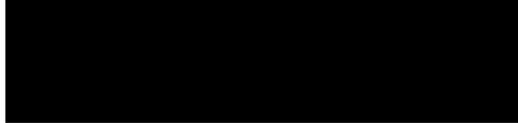
Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your misconduct that resulted in three NJPs, civil conviction for wrongful drug possession, and SCM outweighed these mitigating factors. The Board also concurred with the AO that there is evidence that you incurred PTSD during military service, but there is insufficient evidence that all of your misconduct could be attributed to PTSD. 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,

3/3/2022



Executive Director

Signed by: █