



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: 7039-21
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 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 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 19 January 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 were discharged from the US Air Force delayed entry program and began a period of active service in the Navy on 7 September 2001. After your initial training, you joined the █
█ for duty on 24 January 2002 and, less than 2 weeks later, absented

yourself without leave for a period of 549 days. You were ultimately discharged on 5 August 2003 after approval of your request for separation in lieu of trial.

A review of your discharge by the Naval Discharge Review Board (NDRB) in 2012 indicates that you have previously contended your unauthorized absence resulted from being hospitalized due to a car accident. The NDRB observed records substantiating that you received treatment for minor injuries to your neck and back but a lack of evidence to support your contention that the accident caused such an extended period of absence.

The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your characterization of service, your evidence of receiving social security income for an unspecified disability, and your belief that military benefits would help you get your life back on track if you were eligible. Further, the Board considered your contention that you fought mental health issues since your childhood and had believed joining the military would help you overcome those issues, except that the military made your mental health worse and, ultimately, resulted in you abandoning your duties and experiencing a physically debilitating car accident. Additionally, the Board considered the documentation of your medical care provided by the Department of Veteran's Administration which includes post-service diagnoses of a psychotic disorder in 2010 and of paranoid schizophrenia in 2012. Because you contend that your discharge is unjust due to the mitigating effect of a mental health condition that was either incurred during active military service or aggravated by such service, the Board also considered the AO which reviewed your service record and supporting documents. The AO found no indication that you disclosed mental health symptoms or treatment prior to enlisting or during your enlistment and that the available, objective evidence fails to establish a mitigating nexus between your in-service misconduct and your post-service diagnosed mental health conditions. As a result, the Board determined that your post-service diagnoses of mental health conditions had no nexus to your misconduct and did not mitigate your in-service misconduct of an unauthorized absence of almost a year and a half. Therefore, based upon the totality of its review, the Board found no error or injustice in your administrative discharge with an other than honorable as a result of your request for separation in lieu of trial and, accordingly, concluded that the potentially mitigating factors you submitted were insufficient to warrant 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

[REDACTED]