



**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: 7114-21  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session on 14 March 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, and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

You contend that; (1) you were not educated on the types and labels of discharges when you left the Navy, (2) you were unable to submit the specifics of this request due to the level of embarrassment you were experiencing, and (3) you were sexually assaulted by four naval service members. The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations.

As part of the Board's review, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertions noted above. The AO noted your official military personnel file (OMPF) did not contain evidence of a diagnosis of a mental health condition or reported psychological symptoms/behavioral changes indicative of a diagnosable unfitting mental health condition. The AO further noted the lack of

clarifying information made available did not provide enough markers to establish an onset and development of mental health symptoms or identify a nexus with your misconduct. Based on these findings, the AO concluded there is insufficient evidence to establish an association between behaviors with your contended military sexual trauma or to determine possible mitigation in your in-service misconduct.

The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and your contentions noted above. Based upon this review, the Board concurred with the AO and concluded these potential mitigating factors were insufficient to warrant relief. Specifically, the Board determined the seriousness of your misconduct, which included over 700 days of UA and two NJPs, was not offset by the mitigation evidence you provided. The Board was not persuaded by your reasons for going UA and concluded you were appropriately discharged for your misconduct and assigned an Other than Honorable characterization of service. In making this finding, the Board determined your conduct was a significant departure from that expected from a Sailor and was not excused based on the findings of the AO. Accordingly, the Board found insufficient evidence of error or injustice to merit a change to your record.

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,

3/28/2022

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