



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: 7116-21
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 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.

The Board determined that your personal appearance via video of telephonic, 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.

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 6 December 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 14 March 1977. On 17 August 1977, you received nonjudicial punishment (NJP) for three brief periods of unauthorized absence (UA). On 8 November 1978, you were convicted by special court-martial (SPCM) of possession of marijuana, and possession of marijuana with intent to distribute. On 13 April 1979, you received NJP for willful disobedience, disrespect, escaping from the custody from armed forces police, and causing a breach of peace. On 12 June 1979, you were convicted by general court-

martial of assault with a dangerous weapon. On 6 July 1979, you received NJP for willful disobedience of a lawful order. On 14 September 1979, you were notified of administrative discharge action for misconduct due to frequent involvement of a discreditable nature with military authorities. You were advised of your procedural rights and you elected to waive your right to have your case heard before an administrative discharge board, and your case was forwarded to the separation authority. It was stated that you were had been counseled repeatedly on your conduct and attitude, that counseling sessions proved to be totally ineffective and there was no improvement in your military conduct. You were recommended for an OTH discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 27 September 1979, you received NJP for brief period of UA. On 3 October 1979, the separation authority directed you receive and OTH discharge for misconduct due to frequent involvement. On 11 October 1963, you were discharged from the Navy with an OTH characterization of service

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 preponderance of the evidence, there is post-service evidence that you incurred PTSD during military service, but there is insufficient evidence that 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 statement that you incurred PTSD from harassment and racism during your military service, and the charges against you were fabricated to protect other perpetrators. The Board noted you submitted documentation that you completed an intensive outpatient behavioral health treatment program for homeless veterans in September 2021, the Department of Veterans Affairs a diagnosed you with PTSD attributed to military service, and your educational achievements post military service. Based upon this review, the Board concluded that these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your four NJPs, SPCM, and GCM outweighed these mitigating factors. The Board also concurred with the AO that based on the preponderance of the evidence, there is post-service evidence that you incurred PTSD during military service, but there is insufficient evidence that 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,

3/4/2022



Executive Director

Signed by: █