



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: 7438-21
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.

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 21 December 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 27 December 1979. On 11 December 1980, you received nonjudicial punishment (NJP) for unlawfully striking another Marine in the head with your fist, and drunk and disorderly conduct. On 24 February 1981, you were counseled concerning your disobedience of a base order, and advised that further violations could result in nonjudicial punishment. On 29 April 1981, you received NJP for willful disobedience of a lawful order to return to base. On 30 July 1981, you were in the hands of civil authorities for missing a court date. On 6 November 1981, you were released by civil authorities after being found guilty of assault. During the period from 6 November to 22 December 1981, you received three NJPs for four specifications of failing to go at the time prescribed to your appointed place of duty, failure to obey an order, and willfully disobeying an order. On 11 May

1982, you were notified of administrative discharge action for misconduct due to frequent involvement with military and civilian authorities. After being advised of your procedural rights, you waived your right to request to have your case heard before an admin discharge board. Your case was forwarded to the separation authority recommending your discharge due to misconduct.

On 27 May 1982, you were the subject of a psychological evaluation for chemical dependence by a medical officer. You were found to be dependent on alcohol, a psychiatric evaluation/consult was not required, and you were required to get remedial education for occasional alcohol abuse/misuse. Your administrative discharge case was reviewed by a staff judge advocate, and found to be sufficient in law and fact. On 4 June 1982, the separation authority directed you receive an other than honorable (OTH) discharge. Your record states that you were hospitalized due to a grenade explosion from 11 June to 6 July 1982. On 7 July 1982, you received NJP for failing to go at the time prescribed and willfully disobeying an order, and were in the hands of civil authorities from 20 to 23 August 1982. On 1 October 1982, you were discharged from the Marine Corps 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 available evidence, there is insufficient evidence that you may have incurred PTSD during military service, that there is insufficient evidence that you may have incurred another unfitting mental health disorder during military service, and there is insufficient evidence that your misconduct could be attributed to PTSD or another unfitting mental health condition.

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 contentions that: (a) your PTSD was caused when an active grenade was thrown into a room that you were in on 11 June 1982; (b) since that incident, you had PTSD, anger issues, and continue to have anxiety and depression; (c) you have Stage IV prostate cancer that has metastasized into bone cancer; (d) you feel that you are at the end of your life and would like to use the VA Healthcare; and (e) you believe that you should get assistance for the PTSD that you suffered in the Marine Corps. 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 six NJPs, civil conviction and the fact that you were warned of the consequence of further misconduct after your first NJP outweighed these mitigating factors. The Board also concurred with the AO that based on the available evidence, there is insufficient evidence that you may have incurred PTSD during military service. There is insufficient evidence that you may have incurred another unfitting mental health disorder during military service, and there is insufficient evidence that your misconduct could be attributed to PTSD or another unfitting mental health condition. 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

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Executive Director

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