

DEPARTMENT OF THE NAVY

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

> Docket No: 7493-21 Ref: Signature Date



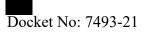
Dear Petitioner:

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.

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.

A three-member panel of the Board, sitting in executive session, considered your application on 3 January 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, applicable statutes, regulations, and policies, to include the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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 also considered the advisory opinion (AO) furnished by qualified mental health provider.

On 4 January 1985, you received in the Navy after serving over three years of prior honorable service. On 15 July 1986, you received nonjudicial punishment (NJP) for simple assault, drunk and disorderly conduct, provoking a fight, and using racial slurs. On 20 July 1986, a message was forwarded to regarding your personal behavior, prejudicial feelings, and disrespect for discipline. At the time, you stated that "you did not feel comfortable around blacks since your wife's experience and would always have difficulty working around blacks." On 25 July 1986, you were notified of administrative

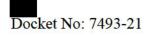


separation processing by reason of best interest of the service due to your inability and/or refusal to comply with Navy's Equal Opportunity (EO) Policy. You waived all your rights and did not object to the separation. On 18 August 1986, your commanding officer recommended an immediate discharge from the Navy and further stated that your total disregard for authority and intolerable lack of respect for minority members of the service had persisted and detracted from the morale, discipline, and overall mission effectiveness of the command and a history of counseling and reprimands had failed to remedy the problem. On 29 August 1986, the Chief of Naval Personnel forwarded your case to the Assistant Secretary of the Navy (ASN) Manpower and Reserve Affairs recommending that you receive a general discharge by reason of best interest of the service. On 12 September 1986, the ASN directed your discharge by reason of best interest of the service with a general characterization of service. On 8 October 1986, you were discharged with a general characterization of service, secretarial plenary authority narrative reason for separation, and a RE-4 reenlistment code.

In connection with your assertion that you suffered from post-traumatic stress disorder (PTSD) and other mental health conditions, the Board requested, and reviewed, the AO provided by a qualified mental health provider. The AO concluded that there is post-service evidence that you may have incurred PTSD during military service and that some of your misconduct could be attributed to PTSD, but there is insufficient evidence that you incurred any other mental health conditions during military service.

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 desire for an honorable discharge, RE-1 reenlistment code, and contentions that you suffered from an undiagnosed and untreated mental health conditions, to include PTSD and bipolar disorder, that resulted in your discharge. In reviewing your contentions the Board applied liberal consideration to evidence which might support the existence of those conditions occurring in-service and also considered the AO in making its determination. In its deliberations, the Board concurred with the AO's assessment that your records contained evidence that some of your misconduct could be attributed to PTSD. Based on the mitigation of the PTSD, the Board felt that the general characterization of service you received was appropriate given your NJP and refusal to comply with the Navy's EO Policy even after repeated counseling by your chain of command. Additionally by refusing to comply with the EO Policy, your retention in service was not warranted, resulting in the applicable reenlistment code. 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.

