



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

█
Docket No: 7741-21
Ref: Signature Date

█
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.

Although you did not file your application in a timely manner, the statute of limitations was waived 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 25 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 this 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health provider, which was previously provided to you, the documents submitted in rebuttal, and subsequent AO.

You enlisted and began a period of active duty in the Marine Corps on 12 August 1987. You were awarded three Meritorious Mazes on the following dates: 24 March 1988, 25 July 1989, and 8 January 1990. On 14 February 1990, you received nonjudicial punishment (NJP) for being absent from section physical training and for making a false official statement by attempting to turn in a forged sick in quarters chit to a Gunnery Sergeant. These offenses were in violation of Articles 86 and 107, Uniform Code of Military Justice (UCMJ). You received a second NJP on 29 May 1990 for being absent from physical training formation and willfully disobeying a Captain's order to call the Gunnery Sergeant regarding whether you were needed at work. These offense were in violation

of Articles 86 and 90, UCMJ. On 20 October 1990, you were convicted by general court martial (GCM) of conspiracy to obtain and use a dependent Identification Card; dereliction of duty by not informing the housing office you were not entitled to on-base quarters; two specifications of false official statement for fraudulently signing an Identification Card application and stating to the housing manager that you were living in quarters with your wife. These offense were in violation of Articles 81, 92, and 107, UCMJ. You were also convicted of violating three specifications of Article 134, UCMJ for making a false written statement to the Naval Investigative Service, obtaining services under false pretenses, and possessing and using an Identification Card with intent to defraud. You were sentenced to confinement for seven months, forfeiture of \$400 pay per month for seven months, and reduction in rank from the pay grade E-3 to E-1. On 19 February 1991, you were notified of administrative separation processing by reason of misconduct. You consulted with counsel and waived your procedural right to request that an Administrative Discharge Board review your case. On 18 March 1991, you were separated with an other than honorable characterization of service.

You contend that you had undiagnosed ██████████ from a ██████████ that resulted in a negative impact on your ability to adapt to the rigors of the Marine Corps. Specifically, you state that as a child you witnessed gang violence and illegal drug activity. You further state you did not have any positive male role models growing up, you were raised by a single mother, and your father was absent. You contend your family had problems with incarcerations, shootings, and your aunt killed someone which led to your home being stormed by police.

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 noted above, desire to upgrade your discharge, and post-service accomplishments. The Board also relied on the AO in making its determination. The AO noted that post-service, you were diagnosed with ██████████ that was attributed to pre-service traumatic events. The AO further noted that while it is possible that you were experiencing unrecognized symptoms of ██████████ during your military service, there was insufficient evidence to establish a nexus with your misconduct, particularly because the premeditated nature of the GCM offenses is not characteristic of PTSD. Consequently, the AO concluded that there was insufficient evidence that you incurred ██████████ during military service or that your misconduct could be attributed to ██████████. Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that the seriousness of your misconduct, as evidenced by your two NJPs and GCM, outweighed these mitigating factors. In making this finding, the Board noted that your misconduct showed a complete lack of regard for military authority and regulations. In addition, in weighing your mitigation evidence, the Board took notice of your proclivity for making false official statements and committing fraud on the government while on active duty. 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, _____

3/15/2022

[REDACTED]

Executive Director

Signed by [REDACTED]