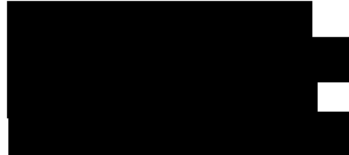




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 0064-22
12657-14
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.

A three-member panel of the Board, sitting in executive session, considered your application on 18 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 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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. Although you were afforded the opportunity to submit a rebuttal, you did not do so.

You enlisted and began a period of active duty in the Marine Corps on 26 January 1989. On 3 July 1989, you received nonjudicial punishment (NJP) for an eight hour unauthorized absence (UA) in violation of Article 86, Uniform Code of Military Justice (UCMJ). You received a second NJP, on 19 January 1990, for failure to go to your appointed place of duty and for being incapacitated for the proper performance of duty in violation of Articles 86 and 134, UCMJ. Your third NJP occurred on 12 July 1991 for three specifications of violation of Article 91, UCMJ, for being disrespectful in speech and gesture toward a Sergeant, disobeying an order to hand over your identification card, and disobeying an order not to drive away. You were also found guilty of disobeying a Marine

Corps order by being dressed inappropriately while at the base cleaners in violation of Article 92, UCMJ. On 17 November 1991, you received a fourth NJP for violation of two specifications of Article 113, UCMJ, for sleeping on post while posted as a sentinel. In addition to the NJPs, you were formally counseled on several occasions between 23 June 1989 and 19 June 1991 for not being at the appointed place of duty at the prescribed time, failing to request permission to leave, financial matters, keeping good relations with your family and avoiding physical altercations within your family, and deficiencies in performance and conduct. On 11 December 1991, you were notified of administrative separation processing by reason of misconduct due to a pattern of misconduct. An administrative discharge board (ADB) was convened on 27 January 1992 to review your case. The ADB unanimously substantiated that the misconduct had occurred and recommended that you be discharged with an other than honorable characterization of service. On 10 April 1992, you were so discharged.

You contend that that while at your first duty station in ██████████, your wife was pregnant and had moved out of your parents' home into a shelter. You state you helped her move into an apartment but had to return to your duty station. You further state that while deployed to ██████████ you started having marital problems and your wife was having financial troubles. You contend that during your next deployment at sea, you found out your wife was pregnant again, and her doctor recommended you attend to her due to a medical issue. You state you were diagnosed with PTSD based on your experiences while deployed to ██████████. You further contend these experiences contributed to your misconduct and that your characterization of service is overly harsh for minor misconduct.

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 and desire to upgrade your discharge. The Board also relied on the AO in making its determination. The AO noted that although the Department of Veterans Affairs determined service connection exists for PTSD, your statement and medical records were insufficient to establish a nexus with your misconduct. In particular, your service record indicates you established a pattern of behavior prior to your deployment that appears to have continued following your return. Consequently, the AO concluded that there was some post-service evidence that you may have incurred PTSD during military service. However, there was insufficient evidence that your misconduct could be attributed to PTSD. 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 four NJPs and numerous formal counseling entries, outweighed these mitigating factors. In making this finding, the Board found that your conduct showed a complete disregard for military authority and regulations. In their opinion, the preponderance of the evidence showed that your conduct constituted a significant departure from that expected of a Marine and warrants the other than honorable characterization of service you were assigned. 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

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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,

4/7/2022

[REDACTED]

Executive Director

[REDACTED]