



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: 111-22
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.

Although you did not file your application in a timely manner, the statute of limitation 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 28 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 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 28 February 2022, which was previously provided to you, and your rebuttal letter to the AO dated 8 March 2022.

You enlisted in the Marine Corps and began a period of active duty on 4 September 1979. During the period from 12 February 1980 and 15 January 1981, you received five nonjudicial punishments (NJPs) for disobeying a lawful order, a brief period of unauthorized absence, use of disrespectful language, willful disobedience, and two specifications of failing to go to your appointed place of duty. Additionally, you were counseled on more than one occasion regarding your misconduct, and warned that further misconduct could result in administrative discharge

action. Based on your Certificate of Release or Discharge from Active Duty (DD Form 214), you received a general discharge on 5 February 1981, under the Marine Corps Expeditious Discharge Program.

Characterization of service is based, in part, on conduct marks assigned on a periodic basis. Your conduct average during your period of active duty was 2.7. At the time of your service, a conduct average of 4.0 was required to be considered for an honorable characterization of service due to narrative reason for your discharge. Your original service record was incomplete and did not contain any documentation pertaining to your separation from the Marine Corps. Absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith.

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 or 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 voluntarily left the Marine Corps. In addition, the Board considered your assertion that you were told that your discharge would be honorable because of your situation at the time and due to downsizing under the Marine Corps Expeditious Discharge Program. Further, the Board considered your assertions regarding the circumstances of how you were discharged under the Expeditious Discharge Program. 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 five NJPs, outweighed these mitigating factors. In addition, the Board considered that fact you failed to attain the required minimum conduct average to be awarded an Honorable characterization of service and were warned, at least twice, of the consequences of your continued misconduct. 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 or that your misconduct could be attributed to PTSD. Ultimately, based on these factors, the Board concluded that significant negative aspects of your conduct outweighed the positive aspects of your active duty service and continue to warrant a General (under honorable conditions) characterization of service. 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,

4/3/2022

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Executive Director

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