



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

██████████
Docket No: 0236-22
Ref: Signature Date

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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 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 4 May 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 an advisory opinion (AO) from a qualified mental health professional, which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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.

You enlisted in the Marine Corps and began a period of active duty on 17 June 1980. On

15 August 1980, administrative remarks in your official military personnel file (OMPF) document that you were counseled for unsatisfactory performance in recruit training and further advised that failure to make an effort to overcome your deficiencies in a reasonable time could result in your discharge. On 26 August 1980, you were notified of your commanding officer's (CO) intent to recommend to the separation authority that you be discharged with an Honorable (HON) characterization of service due to your demonstrated lack of potential to complete recruit training, at which time you waived your right to submit a written statement in rebuttal and did not object to the discharge. On 26 August 1980, a Memorandum Endorsement from the Assistant Chief of Staff, Recruiting, captures your discharge action was reviewed and a determination was made that no recruiting error occurred. In August 1980, the separation authority approved your discharge and, on 29 August 1980, you were discharged with an HON characterization of service by reason of Marine Corps Recruit Failure Program.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. In your petition you contend you incurred PTSD after you were assaulted by your drill instructor for burping while at attention after drinking a coca cola you were ordered to drink, resulting in you being hospitalized and having a week-long post-discharge recovery. As a result of this injury you were required to repeat training and, not wanting to do so, made a suicide attempt which led to your subsequent separation. You further contend, (1) your Certificate of Release or Discharge from Active Duty (DD Form 214) lists you as a failure of military boot camp, (2) you cannot get any justice, (3) you have been trying to get help, (4) the Department of Veterans Affairs (VA) provided you with medical and psychiatric treatment for your PTSD, (5) your life has been filled with trouble, fits of anger, and divorce among other things, and (6) you still have nightmares about the drill instructor who assaulted you.

In connection with your assertion that you suffered from PTSD, the Board requested, and reviewed, the AO. The AO reviewed your service record as well as your petition and the matters that you submitted. According to the AO:

There is no evidence the Petitioner was diagnosed with a mental health condition during his military service. Upon evaluation, a diagnostic impression of "emotional instability" was noted. Unfortunately, he has provided no post-service medical evidence in support of his claims. His personal statement is lacking sufficient detail to establish a nexus with his misconduct, as there are discrepancies in the timeline. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) are required to render an alternate opinion.

The AO concluded, "[b]ased on the available evidence, it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that the circumstances surrounding his separation could be attributed to PTSD."

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