



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: 692-22
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.

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 16 February 2022, which was previously provided to you.

The Board determined that your personal appearance via video or telephonic, 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 1 February 1973. On 10 October 1973 and 18 May 1974, you received nonjudicial punishment (NJP) for a brief period of unauthorized absence (UA) and disobeying a lawful order to double time in formation. On 17 July 1974, you were counseled about your defective attitude and frequent involvement with military authorities. At that time, you understood that you could be processed for administrative discharge action if you did not take corrective action. On 19 July 1974, you received NJP for

being absent from your appointed place of duty. On 5 December 1974 and 26 March 1975, you were convicted by summary court-martial (SCM) of three periods of UA totaling 97 days. On 9 June 1975, you were counseled concerning your involvement with military authorities, and warned about administrative discharge action. On 25 June 1975, you were notified of administrative discharge action due to frequent involvement. After being afforded your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. Additionally, your case was forwarded to separation authority recommending your discharge. On 2 July 1975, you received NJP for two specifications of being absent from your appointed place of duty. On 10 July 1975, a staff judge advocate reviewed your case finding it to be sufficient in law and fact. On 16 July 1975, the separation authority directed you receive an undesirable discharge for misconduct due to frequent involvement. On 12 November 1975, you were discharged from the Marine Corps with an other than honorable characterization of service.

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 a mental health condition during your service. The AO noted that based on the available evidence, there is insufficient evidence that you may have incurred an unfitting mental health condition during military service or that your misconduct could be attributed to an unfitting mental health condition.

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 assertions that you are truly remorseful for your actions about being AWOL, that you were a young man and drinking was so easy, and that you got into the wrong crowd. You also mention that since your discharge you have been a volunteer firefighter and served your community, that you volunteered with the Salvation Army on various projects and have been a very productive citizen. You also state that you have held steady employment until you retired in 2014. Finally, you argue that you were diagnosed with PTSD by the Department of Veterans Affairs, and provided letters of support.

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 four NJPs and two SMC convictions, outweighed these mitigating factors. In making this finding, the Board considered the fact you were warned about the consequences of committing further misconduct. Finally, the Board concurred with the AO that, based on the available evidence, there is insufficient evidence that you may have incurred an unfitting mental health condition during military service or that your misconduct could be attributed to an unfitting mental health condition. 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,

4/4/2022

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Executive Director

Signed by: █