



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: 1231-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 Board waived the statute of limitation 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 8 April 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 to 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 and licensed clinical psychologist which was previously provided to you. You were afforded an opportunity to submit a rebuttal to the AO, but did not.

You enlisted in the Navy began a period of active service on 7 September 2021. Three weeks later, on 21 September 2021, you were seen by a staff psychologist after experiencing problems with depression and suicidal thoughts in the recruit training setting. During your psychological screening, you related pre-service medical history which included treatment for depression and attention-deficit hyperactivity disorder (ADHD) from the age of 10 to 14 years. The records of your entrance physicals indicate that you did not reveal these conditions, including when asked whether you had received prior mental health treatment.

Although a request for a waiver of your medically disqualifying condition was submitted, the approval authority denied the request for waiver. As a result, you were notified of processing for administrative separation on the basis of fraudulent entry due to having made a material misrepresentation regarding the circumstances of your medical history prior to your entry onto active duty. Your entry-level separation was directed with uncharacterized service and a reentry code of "RE-4," and you were discharged on 14 October 2021 with 38 days of net active service.

The Board carefully weighed all potentially mitigating factors, such as your desire to change your reentry code to permit the opportunity to reenlist and your contentions that your recruiter had warned you not to disclose your mental health history during your entrance processing because it would prevent enlistment and that a prohibitive reentry code is therefore unjust. The Board also considered your assertion that you attempted to withdraw from the Delayed Entry Program (DEP) after you eventually learned that you could apply for a waiver of your mental health history and your belief that your recruiter preferred that you lie rather than having to do the extra work to secure a proper waiver.

Because you contend a mental health condition impacted your discharge, the Board also considered the AO, which noted that you had not disclosed your mental health treatment history during your entrance screening but had done so after experiencing mental health symptoms during your initial recruit training. The AO assessed that your in-service diagnosis regarding the pre-existing condition was warranted and that your undisclosed significant mental health treatment, without a waiver, is one of the reasons for an entry-level separation. The Board concurred with the opinion of the AO that your unreported pre-service medical history affected the circumstances of your discharge but noted that your pre-existing mental health treatment does not mitigate your failure to make the required disclosures of that care.

Additionally, notwithstanding your unsubstantiated allegation regarding the recommendation made by your recruiter or your purported attempt to withdraw from the DEP, the Board found that the narrative reason of fraudulent entry with a restrictive reentry code of "RE-4" is neither erroneous nor unjust in light of your conscious choice to withhold material information during your entrance processing. As a result, the Board concluded the potentially mitigating factors you submitted were insufficient to warrant relief at this time and that your assigned "RE-4" code remains appropriate based on the totality of the evidence. Specifically, the Board determined that your material misrepresentation of your mental health history outweighed the factors you submitted for consideration at this time. Accordingly, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

4/25/2022

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Executive Director

Signed by: █