



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

██████████
Docket No: 2038-22
3690-21
6095-20
Ref: Signature Date

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████████████████████
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Dear ██████████:

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 15 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 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, applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted and entered a period of active duty in the Marine Corps on 30 July 1986. On 29 September 1986 you underwent a psychiatric evaluation. The medical officer deemed you fit for full duty and determined your fear of the water did not constitute a phobia. On 1 October 1986 you received nonjudicial punishment (NJP) for willfully disobeying a lawful order to enter the pool, issued by both a Captain and Staff Sergeant in your chain of command. These offenses were in violation of Articles 90 and 91, Uniform Code of Military Justice. On 3 October 1986 your Commanding Officer (CO) recommended that you be administratively discharged with an Entry Level Separation. You received a formal counseling entry on 8 October 1986 concerning your inability to adapt to the military environment and were discharged on 10 October 1986 as an Entry Level Separation with an uncharacterized characterization of service.

You contend that in light of the most recent court rulings, if a Veteran was discharged for a condition related to post-traumatic stress disorder (PTSD) such as insomnia or anxiety, these discharges should be given every consideration to be upgraded to honorable. You state the Board

believes you disobeyed an order. You contend you never disobeyed an order and that you were in the pool as instructed for three days. You further state that on the last day of swim qualification you were assaulted by the swim instructor. You also contend the Department of Veterans Affairs (VA) diagnosed you with 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 contentions noted above and desire to upgrade your discharge. In its deliberations, the Board determined that prior to your discharge, you were found fit for full duty and not separated due to a medical condition. Although you have received post-discharge diagnoses by the VA for vertigo secondary to tinnitus with insomnia symptoms, and migraine headaches, the Board found there was insufficient evidence to establish that these conditions were present at the time of your discharge based on your psychiatric evaluation of 29 September 1986. You were deemed fit for full duty and not diagnosed with any condition at that time, eleven days prior to your discharge. 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 NJP, outweighed these mitigating factors. 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,



Recoverable Signature

[REDACTED]

Executive Director

Signed by:

[REDACTED]