



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: 3122-22

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 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 18 July 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, applicable statutes, regulations, and policies, to include the Kurta memo and 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 professional dated 19 May 2022, which was previously provided to you. Although you were afforded an opportunity to submit an AO rebuttal, you did not do so.

You enlisted in the Marine Corps and began a period of active duty on 30 October 1967. From a period beginning on 15 May 1968 to 12 June 1968, you participated in combat operations in █. On 17 April 1969, you were detained by U.S. Customs Officials at the █ for possession of 630 amphetamine tablets. On 16 July 1969, you were notified of the initiation of administrative separation proceedings by reason of unfitness due to involvement with dangerous drugs. On the same date, your commanding officer recommended an undesirable discharge characterization of service by reason of unfitness due to involvement with dangerous drugs. On 30 July 1969, your administrative separation proceedings were determined to be sufficient in law and fact. On 7 August 1969, the discharge authority approved and ordered and

undesirable discharge characterization of service by reason of unfitness due to involvement with dangerous drugs. As a result, you were discharged on 2 September 1969. On 15 August 1973, the Navy Discharge Review Board (NDRB) upgraded your discharge characterization of service from undesirable to General (Under Honorable Conditions) in accordance with the 13 August 1971 guidance from the Secretary of Defense.

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 desire for a discharge upgrade and contentions that you were dealing with extreme amounts of stress and pressure while in service and the system treated service members unjustly in your type of situation. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, the Petitioner's personal statement is not sufficiently detailed to establish clinical diagnosis or provide a nexus with his misconduct. Additional records (e.g., postservice medical 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 Post-Traumatic Stress Disorder (PTSD) or another mental health condition that can be attributed to military service. There is insufficient evidence that his misconduct could be attributed to PTSD or another mental health condition.

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 apprehension with over 600 pills of amphetamines, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. Further, the Board considered the discrediting effect your apprehension had on the Marine Corps. Additionally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. Finally, the Board noted that you already received a large measure of clemency when your discharge characterization was upgraded in 1973 by the NDRB. As a result, the Board concluded significant negative aspects of your service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. The Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded

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 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 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,

8/2/2022

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