



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

[REDACTED]
Docket No: 3709-22
8865-18
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 21 October 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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 professional, dated 12 July 2022, which was previously provided to you. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to 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 previously applied to this Board for an upgrade to your characterization of service and were denied on 18 September 2019.

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 to upgrade your discharge character of service and contention that you incurred PTSD while on active duty. In addition, the Board considered your assertions that: (1) you were told you could get out early because of hardship and that you were told by your petty officer you needed to write a letter, (2) you have stated that you should have gotten an Honorable, not a General (Under Honorable Conditions) and this has had a negative effect on your life, and (3) you did nothing wrong while you were in the Navy. The Board noted you did not provide any advocacy letters or supporting documentation describing post-service accomplishments.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 6 June 2022. The AO stated in pertinent part:

There is no evidence that he 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. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms of PTSD or provide a nexus with his misconduct. Additional records (e.g., post service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence his failure to drill satisfactorily could be attributed to PTSD."

Unfortunately, the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Administrative remarks in your record reveals that you were separated from the US Navy Reserve on 8 October 2002 with a General (Under Honorable Conditions) characterization of service, your narrative reason for separation is "Unsatisfactory Participation," your separation code is "JHJ," and your reenlistment code is "RE-4."

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your unsatisfactory participation in required reserve drills, outweighed these mitigating factors. In making this finding, the Board considered your lack of participation in the Navy Reserves showed a complete disregard for military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Additionally, the

Board concurred with the AO and determined that there was no evidence that you were diagnosed with a mental health condition while in military service and you provided no medical evidence in support of your claim. Based on the lack of any supporting evidence, the Board determined there is insufficient evidence your failure to drill satisfactorily could be attributed to PTSD. Finally, the Board noted you also failed to provide any evidence to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a General (Under Honorable Conditions) characterization. Even in light of the Wilkie Memo and reviewing the record holistically, 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 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,

10/25/2022

[REDACTED]
Executive Director
[REDACTED]