



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

█
Docket No: 3835-22
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 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 29 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, 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) of a qualified mental health provider which was previously provided to you. You were afforded an opportunity to submit a rebuttal but chose not to do so.

You enlisted in the Marine Corps under a reserve option contract and served your initial required period of active duty from 9 May 1994 to 3 November 1994, at which time you were honorably discharged into the Marine Corps Reserve and transferred to the █ Fleet Service Support Group. From July 1995 to December 2000, you were counseled 16 times on not being recommended for promotion due to unsatisfactory participation in reserve drills. In March 2000, your command attempted to coordinate with you to make up 25 unexcused absences from regularly scheduled drills but received no response despite attempts to communicate with you. Subsequently, you were notified of processing for administrative separation by reason of unsatisfactory participation in the ready reserve due to excessive unexcused absences and were administratively reduced to Private. A sworn affidavit documented the efforts your command

made to contact you to provide service of notification. On 28 June 2000, your commanding officer recommended your administrative separation under Other Than Honorable (OTH) conditions for 33 accumulated absences from drills without response from you to any of the command's attempts to secure your participation. Accordingly, the Commander, Marine Forces Reserve, approved your separation for failure to participate and you were discharged from the Marine Corps Reserve with an OTH.

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 and your contentions that you suffered discrimination and inequity which ended your military career. In addition, you assert that you suffered emotional distress from miscommunication which resulted in an unjust discharge and subsequently triggered post-traumatic stress disorder (PTSD). For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Because you contend that PTSD or another mental health (MH) condition affected your discharge, the Board also considered the AO. The AO states in pertinent part:

There is no evidence of a diagnosis of a mental health condition among the available service records. Post-service, the Petitioner has provided a claim of PTSD that is lacking sufficient detail regarding precipitant stressors, symptoms experienced, and their relation to 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, "[b]ased on the available evidence, it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may 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 33 unexcused drill absences, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact your command provided you multiple opportunities to correct your conduct prior to initiating administrative separation processing. Further, the Board found that you submitted insufficient evidence to support your contentions of either discrimination or miscommunication contributing to the underlying cause of your missed drills. The Board noted that it was your responsibility to ensure that your command had appropriate recall information. Finally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD or another mental health condition. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. After applying liberal consideration, 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.

