



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: 4812-22
Ref: Signature Date



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.

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 17 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 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO) on 30 August 2022. Although you were provided an opportunity to respond to the AO, 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 enlisted in the U.S. Marine Corps Reserve (USMCR) on 30 September 2005. You served a period of active duty from 14 December 2005 to 13 May 2006, ending with an Honorable characterization of service. On 18 March 2007, you commenced another period of active duty. At the time of your infractions which led to your discharge from the USMCR, you were assigned to █nd Battalion, █th Marines (located in █ and were under six month Active Duty Operational Support orders assigned to Operations Company, Headquarters and Service Battalion, █. On 29 March 2007, you were counseled concerning your failure to pay a cab fare, and repeatedly lying about it, and involving another individual to provide a written statement. On 3 May 2007, you were found guilty at a summary court-martial (SCM) of failing to go to your appointed place of duty and two specifications of false official statement. You were sentenced to be confined for a period of 30 days, forfeiture of \$867.00 pay per month for one month and to be reduced in rank to E-4. On 7 May 2007, you were notified of your pending administrative discharge by reason of commission of a serious offense (COSO), at which time you elected your right to consult with military counsel but waived your right to have your case heard before an administrative discharge board. Also on this date, your commanding officer recommended to the separation authority that you be discharged with an Other Than Honorable (OTH) characterization of service. On 8 June 2007, the SA approved the recommendation and directed you be discharged with an OTH characterization by reason of COSO. On 20 June 2007, you were so discharged.

Post-discharge, you petitioned the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 10 April 2008, the NDRB found your discharge was proper as issued.

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 change your character of service and contentions that incurred PTSD as a result of your service and were innocent of the misconduct in your record. Additionally, you imply that you desire a change to your reentry code in order to reenlist in the armed forces. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

Based on your assertion that you incurred PTSD and other mental health concerns during military service, which might have mitigated your discharge characterization of service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with the AO. 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 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.

