



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: 7280-22
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 21 November 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).

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 entered the U.S. Navy's delayed entry program (DEP) on 25 February 1992, then enlisted and began a period of active duty on 18 August 1992. On the 18 Oct 1992 and 19 October 1992, you were in an unauthorized absence (UA) status, each lasting less than 24 hours. On 10 November 1992, you were diagnosed with schizophrenia which existed prior to your entry into the Navy. Your medical diagnosis was accompanied by comments documenting your condition

was unlikely to be ameliorated in the future and a recommendation that you be discharged with an entry-level separation by reason of erroneous enlistment. As a result, you were also notified of your pending administrative separation as evidenced of your past medical history and waived your right to consult with military counsel and have your case head before an administrative discharge board. On 12 November 1992, the separation authority directed you be discharged with an entry-level separation by reason of erroneous enlistment. On 13 November 1992, you were discharged with an uncharacterized entry-level separation.

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 to honorable (HON) and your contentions that; (1) you feel your injury is service connected from when you were in the Navy Fleet Reserve, (2) your symptoms were worsened in boot camp, and (3) your in-service injuries caused you to have amnesia. For purposes of clemency and equity consideration, the Board noted the supporting documentation you provided with your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concluded you were appropriately assigned an uncharacterized entry-level separation based on your time on active duty. Service regulations direct that an uncharacterized entry-level separation is required for service members processed for administrative separation in their first 180 days of active duty service. While certain exceptions to this policy exist, the Board found none that apply in your case. In making this finding, the Board noted that the medical documentation show that your disability conditions existed prior to your entry into the Navy and were disqualifying for enlistment purposes. Therefore, even if your disability conditions were aggravated during your active duty service, the Board concluded it did not qualify you for disability processing since you were erroneously enlisted into the Navy. Therefore, 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 an upgraded characterization of service as a matter of clemency or equity. 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,

12/12/2022

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Executive Director

Signed by: █