




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

  
Docket No. 9270-22  
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 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 April 2023. 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, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD)/mental health condition (MHC) (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 7 March 2023, which was previously provided to you. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Marine Corps and began a period of active duty on 15 June 1978. On 16 March 1979, you underwent a psychiatric evaluation following an incident in which you chased another Marine with an axe. Subsequently, you agreed to avoid any interaction with the other Marine and did not receive a psychiatric diagnosis.

On 20 June 1979, you underwent a second psychiatric evaluation as a result of erratic behavior and suicidal ideations. During the evaluation, you disclosed an incident in which you almost

killed a playmate for insulting your mother. You did not receive a formal diagnosis and were recommended for follow up counseling.

On 22 January 1980, you were notified of the initiation of administrative separation proceedings by reason of unsuitability due to character and behavior disorder. On the same date, your commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of unsuitability due to character and behavior disorder. In the meantime, on 24 January 1980, you underwent an emergency psychiatric evaluation as a result of exhibiting violent tendencies and were diagnosed with schizoid personality with immaturity, severe. On 11 February 1980, the separation authority ordered you discharged due to unsuitability with a characterization warranted by your record of service. On 21 February 1980, you were discharged with a General (Under Honorable Conditions) (GEN) discharge characterization by reason of unsuitability. Your final conduct trait average was 3.8.

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 had numerous mental health related issues and did not understand all that was going on in your life. For purposes of clemency and equity 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:

Petitioner was appropriately referred for psychological evaluation and properly evaluated on multiple occasions during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. Unfortunately, his personal statement and provided medical records are lacking sufficient detail to establish 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, "it is my clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute the circumstances of his separation to a mental health condition, other than his diagnosed personality disorder."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that you were appropriately assigned a GEN characterization of service based on your final conduct trait average. The Board noted you did not achieve the necessary trait average to be assigned an Honorable characterization of service. Further, the Board considered that your conduct marks were, more likely than not, the direct result of the incidents that precipitated your mental health evaluations. Finally, the Board concurred with the AO that there is insufficient evidence to attribute the circumstances of your separation to a mental health condition, other than your diagnosed personality disorder. As a

result, the Board concluded significant negative aspects of your service outweighed the positive aspects and continues to warrant a GEN 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 granting you the relief you requested or granting relief 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 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,

5/2/2023

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Executive Director

Signed by: █