



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. 3215-23
Ref: Signature Date

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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 27 October 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, 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 professional, which was considered favorable to your specific contentions of mental health.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You originally enlisted in the Marine Corps and served a period of Honorable active duty between 20 July 1999 and 27 September 2003. During your first period of service, you deployed to █ as a combat engineer in support of contingency operations and were wounded by shrapnel, earning a Combat Action Ribbon and Purple Heart Medal.

After a period of broken service, you reenlisted and began a second period of active duty on 5 December 2005. At the time of your medical examination for reentry, your medical history

documented that you had registered with the Department of Veterans Affairs (VA) for a pension and compensation exam. A VA record was also provided from your Readjustment Counseling Therapist, on 27 January 2006, stating a professional opinion that you suffered from post-traumatic stress disorder (PTSD).

Of significant note, you enlisted to enter a different military occupational specialty (MOS) program in the intelligence field, which required specific training associated with the MOS. After having arrived to begin your indoctrination into your new MOS at ██████████, on 25 February 2006, you submitted a request to your Congressman seeking assistance with your “mistake” in reenlisting. You described that you had immediately begun suffering an anxiety attack upon returning to the installation and were experiencing symptoms of anger and frustration. On 13 March 2006, your Division Psychiatrist confirmed your diagnosis of PTSD. Prior to reaching 180 days of active service after your initial break in enlistment, you were notified of separation proceedings as an entry level separation by reason of convenience of the Government due to your PTSD, which rendered you unable to readapt to military life or meet the necessary requirements to satisfactorily return to service under your second enlistment contract. You chose not to submit a statement in rebuttal to this notification, and a recommendation for your “Uncharacterized” entry level discharge was forwarded for action. On 6 July 2006, Commanding General, ██████████, approved your separation under the authority of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), paragraph 6205, for convenience of the government due to entry level performance and conduct. On 10 July 2006, 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 Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your uncharacterized entry level discharge and your contentions that your second period of enlistment was impaired due to having not been in the right state of mind as a result of PTSD following the combat service of your first enlistment. You state that you recognize you never should have reenlisted at the time due to your mental state and were primarily motivated by the recent loss of your civilian job while your wife was pregnant with your first child; however, you feel the current characterization and reentry code from your second discharge detract from the honor and respect of your military service and your current post-discharge character. For purposes of clemency and equity consideration, the Board noted you submitted a personal statement, copies of your VA clinical records and disability rating for PTSD, your service records and military awards, your bachelor’s degree, and a copy of the letter previously sent to your Congressman regarding your second period of enlistment.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your uncharacterized entry level separation remains appropriate. Foremost, paragraph 6022 of the MARCORSEPMAN defines entry-level status to include the first 180 days of continuous active military after a break of more than 92 days in active service, which the Board found clearly applied to your status, noting that the 180-day period is determined based upon the date of notification and not the date of discharge. Paragraph 6205 of the same reference specified that a member may be separated at the convenience of the Government under the basis of entry level performance and conduct when a member with broken service fails to satisfactorily complete indoctrination training required

incident to the return to active duty. In this regard, the Board observed that the instruction explicitly directs that “discharge shall be uncharacterized.” Therefore, the Board found no error with respect to your entry level separation having been uncharacterized in accordance with applicable regulations.

Because you contend that post-traumatic stress disorder (PTSD) affected the circumstance of your discharge, the Board also requested and received an AO from a qualified mental health provider. However, although this AO is considered favorable to your contentions of PTSD in general, the Board observed that you did not commit misconduct during your second period of enlistment, nor did you receive an adverse characterization upon your discharge which might warrant applying liberal consideration to mitigate such characterization. Rather, your “Uncharacterized” period of service is, as discussed above, not considered to be adverse or negative; rather, it merely reflects that you were separated before completing the minimum period of service required for a characterized discharge. As a result, the Board noted that the AO supports the basis of your administrative separation but found that the underlying PTSD which contributed to your discharge in an entry level status has no bearing on the characterization you received incident to that separation.

With respect to your reentry code, the Board noted that the favorable AO solidifies, rather than refutes, the appropriateness of your restrictive reentry status due to documented fact, as well as your own acknowledgment, that the severity of your PTSD condition prevented you from successfully reintegrating into military service during your second enlistment. The Board found that your reentry code is not a commentary upon the quality or characterization of your service; rather, it is an administrative designation intended to inform the military services of the need to more closely examine your qualifications for future military service before permitting reenlistment and, therefore, constitutes neither an error nor an injustice.

Therefore, while the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and 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 is attached 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,

11/18/2023

