



issued a correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), correcting your total active service to reflect 5 years, 11 months, and 28 days.

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 have your lost time changed to reflect 1 month and 10 days of creditable federal service and your contention that: (1) your lost time should be counted for creditable federal service as this time was served in full after your discharge of 6 February 2002, (2) you incurred mental health issues during █ shipyard period, (3) you had low coping skills, (4) there was a lack of access to mental health treatment, (5) as a result you were in a UA status for over a month before returning to your command of your own free will, and (6) you completed a full six-year service. For purpose of clemency and equity consideration, the Board noted you provided a copy of you DD Form 214 and an SF-144 Statement of Federal Service worksheet.

Based on your assertions that you incurred mental health concerns during military service, which might have mitigated the circumstances regarding the calculation of your time in service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an 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 in service or provide a nexus with his misconduct. Additional records (e.g., in-service or post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO conclude, "it is my clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, although there existed regulatory guidance that your end of obligated service (EAOS) should have been extended due to lost time, the Board determined it was a harmless error because you failed to prove that you were prejudiced. The Board noted there is no evidence of record that you contested, at the time of your discharge, being discharged short of your EAOS, that you attempted to reenlist, or that you were denied some right associated with the Navy's decision not to extend your EAOS. Ultimately, the Board determined the Navy's decision to not extend your EAOS and release you from active duty was within their discretion based on the needs of the service. Lastly, the Board agreed with the AO that there is insufficient evidence of a mental health condition that may be attributed to your military service or misconduct. As a result, 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,

1/22/2024

