



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. 6013-23
Ref: Signature Date

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Dear █

This is in reference to your reconsideration 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 September 2023. The names and votes of the members of the panel 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)/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).

A review of your record shows that you entered active duty with the Navy on 29 August 2001. On 12 September 2001, you were removed from training due to your suicidal ideations. By 17 September 2001, you were diagnosed with passive-aggressive personality after the medical personnel evaluating you determined you were not being truthful about your past medical history. As a result of your diagnosis, you were discharged on 25 September 2001 with an uncharacterized entry level separation due to erroneous enlistment. In December 2012, the Department of Veteran's Affairs (VA) issued you a combined 70% disability rating for service connected disabilities.

For this petition, you again contend you warrant an Honorable discharge as you have been diagnosed with Schizoaffective disorder, related to your service connected disorder and the VA has characterized your service as Honorable. As new evidence, you submit the VA Benefits decision letter dated 4 July 2023 and a personal statement; the remaining documents you submitted have previously been reviewed by the Board.

The Board carefully reviewed your petition and the material that you provided in support of your petition, and disagreed with your rationale for relief. In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service, to include whether they qualified you for the military disability benefits you seek. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief.

First, as stated in the Board's previous decision, the VA's determination that your 28 days of active military service qualified as Honorable service has no applicability to the Navy. Naval Military Personnel Manual (MILPERSMAN) Article 3630200, authorizes separation of a member during the first 180 days of service when the member has been found unqualified for further service and Article 3610300 specifies that the separation will be uncharacterized and described as Entry-Level Separation. Consequently, the Board determined you were properly awarded an uncharacterized discharge based on your 28 days of active service.

Second, the Board noted you did not disclose in your entrance medical examination that you had received treatment for depression. In September 2001, you admitted to the medical staff that you were given medical advice prior to active duty to take medication and receive therapy for the condition. You confirm this fact in your letter to the Board dated 3 July 2023. Your contention that you were "able to control" the depression has no bearing on the fact that you were obligated to report the condition prior to entering active duty and you did not. Consequently, the Board concluded you were properly discharged for an erroneous enlistment since you did not meet accession standards for the Navy. In making this finding, the Board also concluded that you were fortunate that you were not processed for fraudulent enlistment. Therefore, the Board determined you already received a large measure of clemency from the Navy, likely based on your mental health status at the time. Therefore, after liberal consideration of all the evidence, the Board did not observe any error or injustice in your naval records. 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,

10/16/2023

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Executive Director

Signed by:

A black rectangular redaction box covering the name of the Executive Director.