



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: 5101-19
Ref: Signature Date

Dear ■■■■■■■■■■

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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A three-member panel of the Board, sitting in executive session, considered your application on 16 October 2020. 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. In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 26 August 2020, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 17 February 1982. On 21 June 1982, you received nonjudicial punishment (NJP) for being absent from your appointed place of duty, and disobeying a lawful order. On 4 December 1982, you were counseled concerning your performance and conduct. You were warned that further deficiencies in your performance of conduct could result in administrative discharge. During the period from 7 December 1982 to 16 March 1984, you received four NJPs. The offenses included being drunk and disorderly in a public place, failure to go to your appointed place of duty, six days of unauthorized absence (UA), wrongful possession and use of marijuana, and disrespect.

On 26 March 1984, medical personnel determined you had increased anxiety since your wife left you, and diagnosed you with acute crisis due to marital discord and a mixed personality disorder with acting out. On 27 March 1984, you were, admitted to the hospital for a psychiatric evaluation. On 9 April 1984, you were discharged from the hospital and returned to full duty. While in the hospital, your urine sample tested positive for THC (the metabolite for marijuana), and you were diagnosed with a Mixed Personality Disorder, Alcohol Abuse, Marijuana use, Marital Maladjustment and Hypertension. On 11 April 1984, you volunteered for Antabuse therapy. On 25 May 1984, you were counseled concerning your alcohol abuse, UA, drug abuse, financial support of your dependents, and violent behavior with military authorities. On 7 June 1984, you received NJP for six days of UA. On 19 June 1984, administrative discharge action was initiated to separate you from the Marine Corps by reason of a pattern of misconduct, and you waived your procedural rights. On 27 June 1984, you signed a statement accepting treatment via the Department of Veterans Affairs in conjunction with your discharge. On 3 July 1984, you were counseled regarding alcohol abuse, UA, drug abuse, financial support of dependents, and violent behavior with military authorities. On 25 July 1984, a staff judge advocate found your case to be sufficient and in law and fact for separation. On 8 August 1984, the separation authority directed that you receive and other than honorable (OTH) discharge due to a pattern of misconduct. On 28 August 1984, you were discharged from the Marine Corps with an OTH characterization of service.

You request an upgrade of your characterization of service on the basis that you suffered from Post-traumatic stress disorder (PTSD) during your military service. Your request was fully and carefully considered by the Board in light of the Secretary of Defense's Memorandum, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requested by Veterans Claiming Post Traumatic Stress Disorder" of 3 September 2014 and the "Clarifying Guidance to Military Discharge Review Board and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" memorandum of 25 August 2017.

A qualified mental health professional further reviewed your request for correction to your record and provided the Board with an AO regarding your assertion you were suffering from PTSD during your service. The AO noted that based on the available evidence, there is insufficient evidence that your post-discharge mental health condition can be attributed to your military service or that your in-service misconduct may be mitigated by a mental health condition.

The Board carefully weighed all potentially mitigating factors, such as your record of service, and desire to upgrade your discharge. The board also considered your assertions that during your time in the service, you made multiple errors in judgement due to psychological issues you were unaware you had. The Board concluded these factors and assertions were not sufficient to warrant re-characterization of your discharge given your misconduct, which resulted in six NJPs, and the fact that you were warned of the consequences of further misconduct after your first NJP. Further, the Board concurred with the AO in that there is insufficient evidence that your post-discharge mental health condition can be attributed to your military service or that your in-service misconduct may be mitigated by a mental health condition.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

12/18/2020

[Redacted Signature]

Executive Director

Signed by [Redacted Name]