



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

██████████  
Docket No. 7007-23

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 5 April 2024. 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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 provider, which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You previously applied to this Board for a discharge upgrade and were denied on 8 May 2013 and 3 August 2022. The facts of your case remains substantially unchanged.

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 discharge to “Honorable” and change your narrative reason for separation to “Secretarial Authority” as well as your contentions that modern policy changes, in addition to improved identification and treatment of in-service trauma and PTSD, would have resulted in a different discharge today than it did at the time of your service. In your personal statement, you assert that you experienced trauma due to hazing during a shellback initiation aboard your ship in which you did not desire to participate. You assert that your initial UA period was due to overstaying post-deployment leave and that you did not desire to return to your ship; however, you elaborate that your ship was decommissioning and the Chaplain convinced you to give your next ship a chance. You describe an improved experience on your second ship but similar hazing and bullying issues aboard your third ship. You also describe a shooting incident which occurred between the Marines onboard your ship and Albanian refugees in rafts, claiming that you were terrified you would never see your home again. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

Because you also contend that post-traumatic stress disorder (PTSD) affected your misconduct and should mitigate the circumstances of your discharge, the Board also considered the AO provided by a licensed clinical psychologist who reviewed your available records and contentions. The AO stated in pertinent part:

Petitioner submitted a photograph of a website article on his phone, a picture of his prescription for an anti-depressant (Sertraline), and dates of service at the VA. There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Although he noted that he was diagnosed with PTSD post-service, he did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, “it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is sufficient evidence that his misconduct could be attributed to a mental health condition.”

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, unexpectedly absenting yourself from your command and missing ship’s movement placed an undue burden on your chain of command and fellow service members, and likely negatively impacted mission accomplishment. Further, the Board concurred with the clinical opinion provided by the AO that there is sufficient evidence that your misconduct could be attributed to a mental health condition. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition while in

military service, or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Additionally, the Board noted that your letters of support focus on your mental health contentions in primary part rather than on your post-discharge character or contributions.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

4/25/2024

█

Executive Director

Signed by: █