



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

█  
Docket No. 7922-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 18 March 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 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) (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) furnished by a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy and commenced active duty on 19 July 1974. On 14 February 1975, you received non-judicial punishment (NJP) for failure to obey a lawful order. On 31 July 1976, you were issued an administrative remarks (Page 11/13) counseling concerning deficiencies in your performance and/or conduct, specifically displaying a noticeable lack of interest, initiative, and dependability in performance of your duties.

On 17 December 1976, you received NJP for four hours of UA. On 18 December 1976, you commenced a thirty-four-day period of AU, during which time you were arrested for forgery by

civil authorities, convicted, and sentenced to thirty days in jail. You returned to your command on 21 January 1977.

On 23 January 1977, you commenced a period of UA, during which time you were declared a deserter, that ended in your apprehension by civil authorities on 24 April 1978. On 13 July 1978, you were found guilty at Special Court Martial (SPCM) of two specifications of UA and sentenced to reduction in rank to E-1, forfeitures of pay, and a Bad Conduct Discharge (BCD). After the appropriate reviews and appeals, you were issued a BCD on 11 August 1981.

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 change your discharge characterization of service and your contentions you were a victim of human trafficking, taken against your will, and prevented from reporting for duty. You also contend that you suffer from PTSD due to these events. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 9 February 2024. The AO stated in pertinent part:

Petitioner contended she was a victim of human trafficking during military service, preventing her from reporting for duty, and resulting in PTSD and her misconduct. There is no evidence that she was diagnosed with a mental health condition in military service, or that she exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition.

Throughout her disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. She has provided no medical evidence in support of her claims. Unfortunately, her personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with her misconduct.

The AO concluded, "it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence to attribute her misconduct to PTSD."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD and insufficient evidence to attribute your misconduct to PTSD. As explained in the AO, you provided no medical evidence of your claim and raised no concerns of a mental health condition during your

disciplinary processing. Finally, the Board noted you provided no evidence, other than your personal statement, to substantiate your contentions.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD characterization. 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 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,

4/3/2024

