



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. 9410-23
6004-22
Ref: Signature Date

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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 on 7 June 2024, has carefully examined your current request. 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 and your response to the AO.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

Your previously applied to the Board for a discharge upgrade and were denied on 9 December 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 “General” or “Medical” for purposes of qualifying for treatment and benefits from the Department of Veterans Affairs (VA). You contend that your doctor and the VA have diagnosed you with service-connected PTSD and you attribute your drug abuse misconduct to self-medication, your youth, a traumatic event, your lack of understanding of your condition, and your failure to accept the help that was offered. You also reiterated that you were not offered legal advice and were not led in the “right direction” by your chain of command. In support of your contentions, the Board considered the evidence you submitted in support of your application.

Because you contend that PTSD affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

During military service, the Petitioner was properly evaluated on two occasions and diagnosed with alcohol and substance use disorders. Problematic alcohol and substance use are incompatible with military readiness and discipline and do not remove responsibility for behavior. He has received a diagnosis of PTSD from a VA psychologist that is temporally remote to his military service and attributed to military service. Unfortunately, there are discrepancies in the record of his substance use history that make it difficult to determine the reliability of the Petitioner’s report. While it is possible that learning of the car accident may have exacerbated pre-service childhood trauma symptoms, more weight has been given to in-service evaluations of substance use disorder. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his misconduct) may contribute to an alternate opinion.

The AO concluded, “it is my clinical opinion there is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition, other than alcohol and substance use disorder.”

After review of your rebuttal evidence, the AO remained unchanged.

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 drug abuse, 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. Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition, other than alcohol and substance use disorder. As explained in the AO, your pre-service drug abuse, which you did not appear to report during your VA PTSD DBQ assessment, not only raised doubt as to your claim of self-medication, but also evidenced a problematic discrepancy with respect to your overall candor. Additionally, although you allege in your rebuttal to the AO that you declined rehabilitation treatment because your command “had already made the decision to make an example out of” you rather than help you and was going to process you out regardless of your decision with respect to rehabilitation, the Board noted the requirement for mandatory processing for administrative separation by reason of misconduct due to drug abuse was

