



**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. 10096-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 1 July 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, 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO) on 30 April 2024. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

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

You enlisted in the Navy and commenced a period of active duty on 8 August 2006. In October 2006, you were diagnosed with a personality disorder not otherwise specified (NOS), with paranoid, borderline, and antisocial features, depression NOS, with suicide ideations, and

cannabis abuse. All diagnoses were considered to have existed prior to your entry into service (EPTE). Consequently, you were notified of your commanding officer's intent to recommend you be administratively discharged with an uncharacterized (entry level separation) for defective enlistments and induction; specifically, fraudulent entry into naval service and erroneous enlistment. You waived your rights to consult with counsel and to submit a written statement for consideration by the separation authority. Ultimately, on 2 November 2006, you were discharged with an uncharacterized entry level separation by reason of fraudulent entry into military service.

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 characterization of service and your narrative reason for separation. You contend that: (1) fraudulent entry was stated on your DD 214 in regards to cannabis use prior to your enlistment and, while you understand this is prohibited, this was 19 years ago and the information is incorrect in your separation papers, (2) two different scenarios are stated in your paperwork that do not coincide with one another, (3) the REU (Recruit Evaluation Unit) mental health evaluation has contradicting statements regarding suicide ideations, which is completely false as it states in another part that you had no suicide ideation, (4) words were taken out of context to be able to separate you from the military and there was a failure to mention your actual injuries that started the entire process, and (5) your background with the military and your DD 214 is hindering potential federal employment as well as other things. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

Based on your assertions that you incurred mental health concerns during military service, which may have mitigated the circumstances of your separation, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during her enlistment. Her mental health diagnoses were based on observed behaviors and performance during her period of service, the information she chose to disclose, and the psychological evaluation performed by the mental health clinician. They were all considered to be pre-existing to service, despite a failure to report the symptoms during the pre-enlistment physical. Unfortunately, she has provided no medical evidence to support her claims of error. The available post-service evaluation is temporally remote to military service and appears unrelated. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) may aid in rendering an alternate opinion.

The AO conclude, "it is my clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence of error in her in-service mental health diagnoses."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your assigned uncharacterized entry level separation and narrative reason for separation remain accurate. Service regulations direct the

assignment of an uncharacterized entry level separation when a service member is processed for separation within their first 180 days of active duty. While there are exceptions to the policy in cases involving misconduct or extraordinary performance, the Board determined neither applied in your case. In fact, the Board determined you were fortunate not to be processed for misconduct based on your fraudulent enlistment.

Regarding your narrative reason for separation, the Board found ample evidence to support your fraudulent enlist, including your admission as part of your application to this Board. The Board was not persuaded by your contention that ample time has elapsed to warrant a change to your discharge since there is no provision of federal law or in Navy or Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Lastly, the Board concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to your military service, and insufficient evidence or error in your in-service mental health diagnoses. As explained in the AO, you provided no medical evidence to support your contention that you were misdiagnosed. 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,

7/17/2024

