



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. 138-24
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 5 August 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 and your response to the AO.

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 based on the evidence of record.

You enlisted in the Navy and commenced active duty on 5 September 1989. You received an Honorable (HON) discharge on 25 September 1992, in order to enter the Naval Reserve Officer Training Corps (NROTC) Program. You commenced a second period of active duty as a commissioned officer on 30 August 1996.

On 13 October 1997, while on leave, you were arrested in ██████████, for failure to carry a driver's license, reckless driving, speeding, and driving under the influence of alcohol. You did not face military charges for this misconduct, but you pled guilty to reckless driving in ██████████. You were fined \$500, and sentenced to 90 days in jail, 86 days of which were suspended. Your driving privileges were also suspended for 30 days. You were subsequently screened and treated by the Navy for alcohol abuse. You were later enrolled in a one-year aftercare program for alcohol abuse, in which, as of 6 November 1998, you were participating.

You were subsequently made to show cause for retention, resulting in a recommendation for your separation with a General (Under Honorable Conditions) (OTH) characterization of service.

On 8 April 1999, you were notified of your pending administrative separation and of the debt you owed for the education assistance you received through the NROTC program.

On 28 April 1999, you submitted an unqualified resignation letter wherein you requested an Honorable (HON) discharge in lieu of further administrative action. You additionally submitted a statement opposing the show cause recommendation that you be separated with a GEN and requesting that your NROTC debt be waived.

On 25 June 1999, the Chief of Naval Operations directed recoupment of \$2649.02 for your educational expenses, and your separation with a GEN characterization of service.

On 13 August 1999, you were discharged.

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 to Honorable, and your contentions that your case was handled harshly in part because of your historical timing as one of the first female combatants, that there was no aftercare or support while you were deployed on the same ship post alcohol rehabilitation, that you were one of the first females in a nuclear program, that the culture of DADT negatively impacted your experience, that you were completely honest in your security clearance suspension interviews, despite loving the Navy and wanting to stay, knowing that if you were not honest (as you contend were some of your peers) that you would probably be allowed to stay. In support of your application, you provided additional remarks for your application and an advocacy letter from ██████████, ██████████, a Navy veteran.

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 18 June 2024, which was previously provided to you.

The AO noted in pertinent part:

There is no evidence that you were diagnosed with a mental health condition while in military service other than Alcohol Dependence. That you submitted a letter from a counselor who verified that you were in substance abuse treatment in 1999

while in the Navy. That your statement is not sufficiently detailed to provide a nexus with your misconduct. That additional records (e.g., mental health records describing your diagnosis symptoms, and their specific link to your misconduct) would aid in rendering an alternate opinion.

The AO concluded, based on the available evidence, it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that her misconduct could be attributed to a mental health condition.

In response to the AO, you provided a letter from your counselor during your time in rehabilitation at ██████████.

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 civilian conviction for reckless driving, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved driving under the influence of alcohol wherein you showed disregard for your own safety in addition to disregard for the lives and safety of others. The Board opined that neither historical timing nor your gender mitigates the unacceptable decision of a naval officer to drive under the influence of alcohol.

Additionally, the Board concurred with the AO and determined that there was no evidence that you were diagnosed with a mental health condition while in military service other than Alcohol Dependence, and that your statement is not sufficiently detailed to provide a nexus with your misconduct. The Board further agreed that additional records (e.g., mental health records describing your diagnosis symptoms, and their specific link to your misconduct) may aid in rendering an alternate opinion.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a GEN characterization. While the Board carefully considered the evidence you submitted in mitigation and commends your post-discharge accomplishments, even in light of the Wilkie Memo 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.

In reviewing your record, the Board believes that you may be eligible for veterans' benefits which accrued during your prior periods of Honorable service. However, your eligibility is a matter under the cognizance of the VA. In this regard, you should contact the nearest VA office concerning your rights, specifically, whether or not you are eligible for benefits based on your prior periods of Honorable service.

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,

8/26/2024

