



**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. 348-24  
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 16 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided an opportunity to respond to the AO, 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 based on the evidence of record.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 29 May 1991. Your pre-enlistment physical examination, on 8 April 1991, and self-reported medical history both noted no psychiatric or neurologic symptoms, conditions or issues. As part of your

enlistment application, on your medical history you expressly denied and/or answered in the negative for: (a) nervous trouble of any sort, (b) depression or excessive worry, and (c) ever being treated for a mental condition.

On 15 October 1991, you underwent a psychiatric evaluation. The Medical Officer (MO) diagnosed you with a panic disorder without agoraphobia, and the MO considered you unsuitable for continued service due to panic attacks. The MO noted that you had pre-service history of lesser “limited symptom attacks” but that that increased stress of military training caused your anxiety periods to increase in severity. The MO recommended your administrative separation given that they predicted that treatment will not restore you to fully suitable status. On 22 October 1991, your command issued you a “Page 11” counseling sheet documenting your psychiatric diagnosis. On 22 October 1991, your commanding officer concurred with the MO recommendation to administratively separate you.

On 4 November 1991, your command notified you that you were being processed for an administrative discharge from the Marine Corps by reason of convenience of the government. The general basis for your separation was a physical condition (not a disability), and the specific basis for your separation was your panic disorder diagnosis. You elected in writing to consult with counsel but waived your right to submit a written statement to the separation authority for consideration. Ultimately, on 9 December 1991, you were discharged from the Marine Corps with an uncharacterized entry level separation (ELS) and assigned an RE-4 reentry code. In this regard, you were assigned the correct characterization, narrative reason for separation, and reentry code based on your factual situation.

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 for an “Honorable” characterization of service and contentions that: (a) although your military service was brief, you believe that you served in an “Honorable” manner, (b) as a Marine, to seek help for their mental health, it was and will always be honorable, and, because you honorably sought help from a mental health professional, you were discharged, (c) to change the character of your discharge to “Honorable” would justifiably your military record, (d) such a change would reflect the honorable nature of your service, and the honorable and positive nature of your decision as a Marine to seek the right help from a mental health professional, (e) in the years since you were discharged you have honorably served your country for over 26 years as a civilian in the US █, and (f) your lengthy career in the Federal civilian service reflects the same commitment to public service that you learned in the USMC. For purposes of clemency and equity consideration, the Board considered the entirety of the evidence you provided in support of your application.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO dated 3 July 2024. The Ph.D. stated in pertinent part:

During military service, the Petitioner was properly evaluated and diagnosed with a Panic Disorder. This was based on the clinical history provided by the Petitioner, his clinical presentation to medical evaluators, and his mental status at the time.

There is no evidence that his in-service diagnosis was in error, particularly in light of the fact that Petitioner admitted to “limited symptom attacks” pre-service.

The Ph.D. concluded, “it is my considered clinical opinion there is evidence of a mental health condition that was identified during military service, and which contributed to the circumstances surrounding his separation. There is insufficient evidence of an error in diagnosis.”

In accordance with the Kurta, Hagel, and Wilkie Memos, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, based upon its review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. The Board determined that your Marine Corps service records and DD Form 214 maintained by the Department of the Navy contained no known errors. Based on your precise factual situation and circumstances at the time of your discharge, the Board concluded that your command was justified in separating you for a condition not a disability with an uncharacterized ELS discharge. The Board noted that separations initiated within the first 180 days of continuous active duty<sup>1</sup> will be described as ELS except when an Honorable discharge is approved by the Secretary of the Navy in cases involving unusual circumstances not applicable in your case.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your panic disorder clearly merited your ELS discharge. 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. 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,

8/22/2024

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<sup>1</sup> The date of your administrative separation notification stops the continuous active duty clock for purposes of ELS discharge determination. Your administrative separation notification was dated 4 November 1991, which was day 160 of your active duty service.