



**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. 512-24  
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 19 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 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. Navy and began a period of active duty service on 27 July 1999. Your pre-enlistment physical examination on 13 October 1998, 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, (c) frequent trouble sleeping, and (d) have you consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years for other than minor illnesses. In the context of whether you have ever been treated for a mental condition, you disclosed you had received counselling for child abuse.

On 26 August 1999, the medical staff at █ at █, █, █ recommended your administrative separation after diagnosing you with Post-Traumatic Stress Disorder (PTSD) that existed prior to entry into the naval service (EPTE). The Medical Officer (MO) noted your interview revealed prior psychiatric treatment approximately one time per week from ages 5½ to 18. The MO determined you had been exposed to a pre-service traumatic events between the ages of 3 and 18 involving numerous sexual assaults and physical abuse from relatives and strangers. The MO determined your PTSD was evidenced by: (a) recurrent and intrusive distressing recollections of the events, including images, thoughts or perceptions, (b) recurrent distressing dreams of the events, (c) acting or feeling as if the traumatic event were recurring, (d) efforts to avoid thoughts, feelings, or conversations associated with the traumatic event, (e) efforts to avoid activities, places or people that arouse recollections of the traumatic event, (f) inability to recall an important aspect of the trauma, (g) feeling of detachment or estrangement from others, (h) difficulty falling asleep, (i) difficulty concentrating, and (j) irritability or outbursts of anger. The MO recommended your entry level separation due to your disqualifying psychiatric condition (PSTD EPTE) affecting your potential for performance of expected active duty duties and responsibilities.

On 31 August 1999, your command notified you that you were being processed for an administrative discharge by reason of convenience of the government due to a physical or mental condition as evidenced by PTSD (EPTE). On the same day, you waived in writing your rights to consult with counsel, submit a written statement, and to General Courts-Martial Convening Authority review of the discharge. On 1 September 1999, the Commanding Officer (CO) of █, █ approved and directed your uncharacterized entry level separation (ELS). The CO noted you were diagnosed on 26 August 1999 with PTSD (EPTE), and authorized your separation from the naval service with an ELS. The CO determined that your diagnosed condition interfered with your assignment to, and performance of duties, or would prevent you from performing your expected duties and responsibilities. Ultimately, on 7 September 1999, you were discharged from the Navy for an erroneous enlistment with an uncharacterized ELS discharge characterization and assigned an RE-4 reentry code.

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 narrative reason for separation and your contentions that: (a) your original DD Form 214 which was stolen from you had a narrative reason for discharge as “2311-PTSD,” (b) when you requested a replacement, the new DD Form 214 stated “Erroneous Entry, (c) your PTSD diagnosis was made following a severe injury sustained in boot camp, and (d) all information is in your medical records located at █ Naval Base and █ in █. For purposes of clemency and equity

consideration, the Board considered the entirety of the evidence you provided in support of your application, which consisted solely of your statement on your DD Form 149 petition with no other accompanying documentation for review.

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 28 May 2024. The Ph.D. stated in pertinent part:

During military service, the Petitioner was diagnosed with PTSD that was considered to be a preexisting condition. There is no evidence of error in the diagnosis. She has provided no medical evidence to support her claims. 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 Ph.D. concluded, "it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence of error in her PTSD 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 Navy 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 disqualifying mental health condition that existed prior to your entry into the naval service. The Board determined that your contention of originally receiving a DD Form 214 with a PTSD notation was not persuasive. The Board determined that PTSD would never be listed as a narrative reason or basis for separation on a DD Form 214. The Board also noted that Navy medical records would never be stored/archived at ██████████, ██████████.

The Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Sailor's eligibility for enlistment. The Board concluded that had you properly and fully disclosed your entire pre-service mental health and treatment history, you would have been disqualified from enlisting in the Navy. The Board also concluded that the evidence of record did not demonstrate that you should otherwise not be held accountable for your actions.

Moreover, the Board noted that separations initiated within the first 180 days of continuous active duty will be described as ELS except when an Honorable discharge is approved by the Secretary of the Navy in cases involving unusual circumstances. The Board determined that an exception to policy is not applicable in your case.

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

7/26/2024

