



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. 2936-24
Ref: Signature Date

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Dear █

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 limitations 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 October 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)/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). The Board also considered an advisory opinion (AO) from a qualified mental health professional, dated 9 August 2024. Although you were provided an opportunity to comment on 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 entered active duty with the Marine Corps on 17 February 1971. On 25 March 1971, your Executive Officer recommended you receive a psychiatric evaluation due to your inability to meet minimum standards in the Marine Corps. Subsequently, you received a psychiatric evaluation

that noted your failure to progress satisfactorily in training, even with special attention, was evidence of your inaptitude. As a result, the psychiatrist recommended you for the Depot Aptitude Board. On 30 March 1971, the Aptitude Board determined your general qualifications does not warrant retention and recommended you be discharged from training with a General (Under Honorable Conditions) characterization of service.

Consequently, you were notified of pending administrative separation action by reason of inability to expend efforts constructively and apathy. After electing to waive your rights, your commanding officer forwarded your package to the separation authority recommending your discharge by reason of inability to expend efforts constructively and apathy with a General characterization of service. The separation authority approved the commanding officer's recommendation, and on 8 April 1971, you were so 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 upgrade your discharge and contentions that you incurred a mental health condition during military service due to anxiety, which resulted in you struggling to adapt to active duty lifestyle. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The mental health professional stated in pertinent part:

There is no evidence that you were diagnosed with a mental health condition while in military service, or that you exhibited any symptoms of a mental health condition. Your statement is not sufficiently detailed to provide a nexus with your discharge, nor did you submit any medical evidence in support of your claim. The psychiatrist in-service did note that you presented as anxious, however this would be expected given the stress of boot camp and presenting during a psychiatric evaluation; It does not indicate a diagnosis of anxiety.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of mental health condition that may be attributed to military service."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your inability to complete basic training, due to your failure to expend effort constructively and your apathy, outweighed these mitigating factors. In making this finding, the Board considered the likely negative impact of your inability to meet minimal training standards had on the good order and discipline in the Marine Corps. The Board also concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to military service and that your discharge could be attributed to a mental health condition. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition while in military service, or that you exhibited any symptoms of a mental health condition. Further, the Board noted that there is no

evidence in your record, and you submitted none, to support your contentions. Therefore, the Board concluded you were properly discharged based on the aptitude board findings.

As a result, the Board concluded negative aspects of your brief active service outweigh the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization of service. While the Board carefully considered the evidence you provided 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. Ultimately, the Board concluded the mitigating evidence you provided was insufficient to overcome the underlying basis for your General (Under Honorable Conditions) characterization of service. 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,

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