



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. 2941-24

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 21 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 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional, dated 2 August 2024, and your response to the AO.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 began a period of active duty on 21 August 2003. On 3 October 2003, you were evaluated by a medical officer as a result of been persistently depressed, since age 17, following you parent's divorce. You were diagnosed with Dysthymic Disorder and

recommended for administrative separation due to your disqualifying psychiatric condition. On 9 October 2003, you were notified of the initiation of administrative separation proceedings by reason of defective enlistment and induction due to erroneous enlistment as evidence by Dysthymic Disorder, early onset. You decided to waive your procedural rights, and the separation authority approved and ordered an uncharacterized entry level separation by reason of defective enlistment. On 27 October 2003, you were so discharged with a 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 Wilkie Memo. These included, but were not limited to your desire for a change to your reentry code to allow you to enlist in the Navy Reserve and contentions that: (a) you had a great opportunity 20 years ago and regret not making a career out of the Navy, (b) you have completed your undergraduate studies in social science, a masters degree in teaching English as a secondary language, and a graduate certificate which you are currently competing in workplace instructional design, (c) you have also completed volunteer service at █ which is included in your █ transcripts, you are no longer suffering from depression and have changed, (d) you work at █ as an instructional designer helping to support business courses, (e) your dedication to education and helping others would benefit the Navy, (f) the challenges from the Navy bootcamp coincided with a tumultuous period in your personal life – your parent’s divorce. For purposes of clemency and equity consideration, the Board noted you did provide a personal statement, psychological evaluation, five character letters of support, a letter of recommendation, three unofficial transcripts, █ graduate certificate, and an Academic Teaching Rank Accreditation Certificate Lecturer.

As part of the Board’s review, the Board considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. He was diagnosed with a mental health condition based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. Temporally remote to his military service, he has reported a remission of mental health symptoms. Though he presents with a contradictory psychological evaluation more than twenty years after discharge, the evaluation runs counter to evidence contemporary to his military service. Stressors in military life are different from civilian life; consequently, it is not unreasonable that a mental health condition may improve after separation from service and the restrictive and demanding military environment. In my clinical opinion, his narrative reason for discharge and characterization of service appears appropriate given his in-service mental health diagnosis based on the clinical history and symptom report provided in service. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, “it is my clinical opinion there is insufficient evidence of error in his in-service diagnosis of a mental health condition.”

After reviewing your rebuttal evidence, the AO remained unchanged.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted your assigned reentry code remains appropriate. The Board noted you were appropriately processed and discharged based on your erroneous enlistment that is supported by the medical evidence. Based on this finding, the Board also concluded that your assigned reentry code is supported by the medical evidence that you possessed a disqualifying condition for enlistment and were unsuitable for further military service. The Board concurred with the AO that there is insufficient evidence of error in your in-service diagnosis of a mental health condition. As explained in the AO, it is not unreasonable that a mental health condition may improve after separation from service and the restrictive and demanding military environment. Therefore, the Board was not persuaded by your latest medical evidence that your reentry code was issued in error or is an injustice.

As a result, 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 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 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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