



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. 6789-24
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 10 January 2025, has carefully examined your current request. 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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.

On 20 April 2023, this Board denied your initial petition to remove your personality disorder diagnosis from your record and your request that a VA disability benefit be retroactively applied to 1975. On 18 September 2003, this Board made some minor administrative adjustments to your DD Form 214 to remove any reference of a personality disorder as the reason for your separation. The Board, however, denied your request that you be compensated for all of the years you were allegedly untreated for your pre-existing condition which was purportedly worsened by the Navy. On 11 January 2024, this Board denied your request to receive a medical retirement based on PTSD. The facts of your case remain substantially unchanged.

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 a change to your record and contentions: (a) you have been forced to live with this injustice since 1974, (b) you are requesting relief for the injustice of a falsely labeled diagnosis of immature personality disorder in 1974, (c) you were not provided a medical evaluation “in reference to all the trauma pre-military and during the military and not afforded a proper medical discharge in 1974,” which also prevented you from receiving mental health treatment from the military “because of the failure of the military not to inform me of the correct medical trauma Diagnose of mental trauma pre-military and during military,” and (d) clear unmistakable evidence of records by C&P PTSD initial evaluation demonstrate the truth. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO dated 1 November 2024. 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 during his enlistment and properly evaluated during an outpatient psychiatry appointment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. The Petitioner provided evidence of a diagnosis of PTSD that is temporally remote to service.

The Ph.D.’s AO concluded, “it is my clinical opinion that there is sufficient evidence of a post-service mental health condition. There is insufficient evidence to attribute his characterization of service to a mental health condition.”

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, 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, the Board concluded that there was no convincing evidence of any nexus between any

purported mental health conditions and/or related symptoms and the circumstances underlying your discharge for a personality disorder. As a result, the Board concluded that your discharge was not due to mental health-related conditions or symptoms, but rather due solely to your duly diagnosed character and behavior disorder. The Board unequivocally determined that your original personality disorder diagnosis was proper and not erroneous, and the Board was not willing to re-litigate the well-settled facts of your case that are no longer in dispute. The Board also determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

The Board recognizes that personality disorders are characterized by a longstanding pattern of unhealthy behaviors, dysfunctional relationships, and maladaptive thinking patterns. They are not typically conditions considered unfitting or disabling, but render service members unsuitable for military service and consideration for administrative separation. Further, the Board observed that a personality disorder is not considered a disability under Navy Regulations. Accordingly, the Board concluded that your personality disorder was a non-disabling disorder of character and behavior, and it did not impair your ability to be accountable for your actions or behaviors.

With respect to your request that the Board that you receive monetary damages and/or VA disability compensation, you should be advised that the VA is a separate and distinct entity from this Board, and the VA makes its own findings and conclusions with respect to the award of VA benefits and the effective date of such benefits. Additionally, the Board is not statutorily empowered to “grant” a Petitioner VA disability benefits/compensation, or award monetary damages as relief. Therefore, the Board denied your compensation request and strongly recommends that you redirect any and all future compensation requests to the VA.

Moreover, the Board noted that VA discharge characterizations and/or eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. The Board concluded that such VA discharge characterizations and/or eligibility determinations are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations.

Finally, absent a material error or injustice, the Board declined to summarily make certain changes to naval records solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities. As a result, the Board determined that there was no impropriety or inequity in your discharge for a personality disorder, and even under the liberal consideration standard, the Board concluded that your conduct and behavior clearly merited your discharge for a duly diagnosed character and behavior disorder. 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

1/20/2025

