DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[redacted]
Docket No. 8165-24
Ref: Signature Date

[redacted]

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, considered your application on 5 February 2025. 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

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 previously applied to this Board for an upgrade to your characterization of service and disability benefits. You were denied relief on 8 November 2007 and 7 May 2020. 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 to upgrade your discharge character of service, receive a "medical discharge," and qualify for concurrent military retirement pay[1]. You contend that you did not understand why you were being mistreated by other females, when you were in the Delayed Entry Program (DEP) you did not have one incident happen, you were where you was suppose to be and did as you were told. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 18 December 2024. The AO stated in pertinent part:

> There is no evidence that she was diagnosed with a mental health condition in military service, or that she exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition.
>
> Post-service the Department of Veterans Affairs (VA) granted service connection for a mental health condition that was considered to have been aggravated by in-service stress. Records do indicate that the Petitioner currently experiences severe mental health concerns. It is possible that she may have experienced serious mental health concerns prior to service, as noted by her pre-service attempt to die by suicide.
>
> Unfortunately, available records are not sufficiently detailed to establish a nexus between any potential in-service mental health symptoms she may have been experiencing with her failure to adapt to military service. 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 AO concluded, "it is my clinical opinion that there is post-service evidence from the VA of a mental health condition that may have been exacerbated by military service. There is insufficient evidence to attribute her failure to adapt to military service to a mental health condition."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your assigned uncharacterized entry-level separation remains appropriate. Applicable regulations authorize an uncharacterized entry-level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service, as in your case. While there are exceptions to policy in cases

[1] The Board determined the granting of concurrent retirement and disability pay (CRDP) is not within its statutory authority. Rather, eligibility for CRDP is a matter established by statute based various factors involving a member's service history and Department of Veterans Affairs disability rating. Therefore, the Board did not consider this aspect of your application.

involving misconduct or extraordinary performance, the Board determined neither exception applies in your case.

Regarding your request for a "medical discharge," the Board determined insufficient evidence exists to support your request. The Board concurred with the AO that, while there is post-service evidence from the VA of a mental health condition that may have been exacerbated by military service, there is insufficient evidence to attribute your failure to adapt to military service to a mental health condition. As the AO explained, the available records are not sufficiently detailed to establish a nexus between any potential in-service mental health symptoms you may have been experiencing with your failure to adapt to military service. The Board agreed, there is no evidence that you were diagnosed with a mental health condition in military service, or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Further, the Board determined that the record evidence demonstrates that, even if you had a disability condition, there is no evidence that any medical provider determined that you had any conditions that warranted referral to a medical board for a determination of fitness for duty within the disability evaluation system. Finally, the Board noted your argument for a medical discharge is partially based on the VA decision to issue you service connected disability ratings. The Board was not persuaded by your VA evidence since eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated.

Therefore, 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.

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,

3/5/2025

[redacted]