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

[redacted]
Docket No. 8562-24
Ref: Signature Date

[redacted]

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 3 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 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, 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

On May 17, 2000, you enlisted in the Navy Reserve for a term of eight years; with an agreement to extend your enlistment for an additional 12 months. Subsequently, based on the information contained in your service record, you accrued 20 unexcused absences from your required reserve drills[1]. As a result, you were formally notified via certified mail of your commanding officer's

[1] Per RESPERSMAN 1570-010, the minimum duration of a paid regular Inactive Duty Training (IDT) period is four hours. Additionally, a maximum of two IDT periods may be performed in one calendar day. This means that a

intent to initiate administrative separation proceedings due to unsatisfactory participation in the Ready Reserve. This notification also informed you that you had 30 days from the date of delivery to your official address to review, sign, and return the letter of notification. Since you did not respond within the prescribed time frame, you waived your procedural right to present your case before an administrative discharge board. Accordingly, your commanding officer forwarded your administrative discharge package to the separation authority (SA) with a recommendation for discharge under General (Under Honorable Conditions) characterization of service adding,

> "[Petitioner] enlisted in the Navy Reserve in the Non-Prior service program on 17 May 2000. His first drill weekend at [redacted] was on 3/4 June 2000. [Petitioner] attended Command Indoctrination on 3/4 June 2000, where he was briefed on the responsibilities of his enlistment. Accordingly, member chose not to conduct required reserve drills. Based on [Petitioner's] lack of participation, he is not considered to be a mobilization asset. In accordance with his mobilization assessment, he is not recommended for retention or reaffiliation in the Navy Reserve."

The separation authority concurred with this recommendation, and you were so discharged on 22 April 2008.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 to have your administrative separation removed from your official military personnel file. You contend that: (1) you faithfully served both your community and country as a Deputy Sheriff and a Navy reservist, (2) in 2005, you were injured in the line of duty while serving in the reserves but returned to duty after surgery, (3) later, you were permanently disabled in a line-of-duty accident as a deputy, which prevented you from participating in physical drills, (4) at the time, your Executive Officer (XO) and Chief Warrant Officer recognized your outstanding service as a reservist and career counselor for your unit, assuring you that you would be granted authorized absence for the 10-12 remaining drills of your contract. However, a change in leadership resulted in this agreement not being honored, (5) due to your accident with the sheriff's office, you suffered from PTSD and major depression, (6) at the time of your separation, you were not mentally fit to fully participate in the exit process, and (7) now, after years of treatment, you seek to restore your reputation and have your administrative separation corrected to reflect an honorable discharge from the reserves—allowing you to proudly call yourself a Navy Reserve veteran. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

Based on your assertions that you incurred PTSD from an injury incurred during training, which may have contributed to the circumstances of your discharge from the Reserves, a qualified

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standard drill weekend typically consists of four IDT periods-two on Saturday and two on Sunday—totaling 16 hours of training. Therefore, missing one day of a drill weekend equates to missing two IDT periods.

mental health professional reviewed your request for correction to your record and provided the Board with an AO on 10 December 2024. The AO stated in pertinent part:

> There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given that his unexcused absences preceded his injury to his arm. 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 that there is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence to attribute his misconduct to PTSD."

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your unauthorized absences, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. Additionally, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD and insufficient evidence to attribute your misconduct to PTSD. As explained in the AO, you have provided no medical evidence in support of your mental health claims. Therefore, the Board 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. Finally, the Board noted that you provided no evidence, other than your statement, to substantiate your contention that you were initially excused from your drills.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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 is attached 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,

3/4/2025

[redacted]

Executive Director

Signed by: [redacted]