



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

██████████
Docket No. 8857-24
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 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 11 April 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 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 and your AO rebuttal submission.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 21 March 1967. Your pre-enlistment physical examination, on 1 March 1967, and self-reported medical history both noted no psychiatric or neurologic issues, history, conditions, or symptoms.

On 25 September 1967, you commenced an unauthorized absence (UA) that terminated on

26 September 1967. On 27 September 1967, you received non-judicial punishment (NJP) for your one-day UA and for failing to obey a lawful order. You did not appeal your NJP.

Between 17 December 1967 and 4 November 1968, you participated in combat operations in the ██████████. During your tour in ██████████, you earned the Combat Action Ribbon.

On 12 November 1968, you received NJP for UA. You did not appeal your NJP.

On your physical examination, on 8 December 1968, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. On 5 January 1969 you embarked at ██████████, ██████████ and disembarked at ██████████ Air Force Base in ██████████, ██████████.

On 1 April 1969, you commenced a period of UA that terminated on 2 April 1969. On 2 April 1969, you received NJP for your one-day UA and for failing to obey a lawful order. You did not appeal your NJP.

On 19 September 1969, you underwent a fitness for duty examination after being picked up by host national police while under the influence of drugs and/or alcohol. Hospital testing indicated you tested positive for barbiturates. The Medical Officer (MO) determined you were not fit to perform duty if so ordered. The MO determined that your current condition was due to drug/alcohol use and not due to disease or injury.

On 17 October 1969, you received NJP for willfully allowing three (3) military pay records to be wrongfully disposed of by mailing them to the ██████████ ██████████. You did not appeal your NJP. During a subsequent psychiatric evaluation, you admitted that you sent such pay records to ██████████ to get even because these three Marines allegedly beat you up in town.

On 24 November 1969, pursuant to your guilty pleas, you were convicted at a Special Court-Martial (SPCM) of: (a) the wrongful possession of a habit forming drug, to wit: itobarbital, and (b) drunk and disorderly conduct. The Court sentenced you to confinement at hard labor, forfeitures of pay, and a reduction in rank to the lowest enlisted paygrade (E-1). On 9 December 1969, the Convening Authority approved the SPCM sentence.

On 7 May 1970, you underwent a psychiatric evaluation at the request of your commanding officer (CO). The MO diagnosed you with a personality disorder, more specifically, an "immature personality, passive-aggressive type." The MO noted that you did not exhibit any signs or symptoms of acute psychosis. The MO also noted as follows:

[Petitioner] is not a military oriented man and does not respond to authority and or rules. He states that he was very anxious to get out of the service and was planning to further his education when he does get out...[Petitioner] has no remorse for any of the acts he has done. [Petitioner] suffers from a character disorder which classically will not respond to any means of therapy or rehabilitation and one which can be expected to continue.

During your evaluation was when you admitted intentionally sending the three (3) pay records to

██████████ to get even with certain Marines. The MO noted at the conclusion of his evaluation write-up that he was recommending your separation from the Marine Corps.

On 2 June 1970, your command notified you of administrative separation proceedings by reason of unfitness. That same day, you consulted with counsel and waived in writing your right to request a hearing before an administrative separation board.

On 15 June 1970, the Staff Judge Advocate for the Separation Authority (SA) determined that your administrative separation proceedings were legally and factually sufficient. On 16 June 1970, the SA approved and directed your undesirable discharge under conditions Other Than Honorable (OTH). In the interim, your separation physical examination, on 24 June 1970, noted no psychiatric or neurologic issues, conditions, or symptoms. Ultimately, on 30 June 1970, you were separated from the Marine Corps for unfitness due to frequent involvement of a discreditable nature with civil or military authorities and assigned an 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 Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and change to your narrative reason for separation, separation code, and reentry code. You contend that: (a) your undiagnosed PTSD undoubtedly impacted your ability to perform to the best of your abilities, (b) under new clarifying guidance directives, this Board must take into account whether your mental health condition was a mitigating factor in the discharge, (c) your PTSD sufficiently explains and mitigates the misconduct, (d) you suffered from PTSD on active duty and attempted to self-medicate with alcohol and anxiety reducing pills, (e) your court martial resulting from self-treatment for PTSD and your handful of other minor infractions do not warrant an OTH discharge, (f) your exemplary military records, average conduct rating of 3.9 and multiple awards/metals support your honorable service of this country which should be supported by an honorable discharge, or at the very least a general (under honorable conditions) discharge characterization, and (g) post-service you have been an exemplary work employee despite dealing with PTSD. 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 28 January 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. He has provided post-service evidence of a diagnosis of PTSD. It is possible that he was suffering from PTSD symptoms following combat service to ██████████, and some of his misconduct could have been a result thereof. However, willfully disposing of pay records and failing to obey orders are not typical behaviors caused by symptoms of PTSD. Unauthorized absence and substance use could be explained by PTSD due to common symptoms of avoidance and attempting to numb traumatic symptoms such as flashbacks and/or nightmares, for example.

The Ph.D. concluded, "...it is my clinical opinion that there is sufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute *all* of his misconduct to a mental health condition."

Following a review of your AO rebuttal submission, the Ph.D. did not change or otherwise modify their original AO.

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 mental health conditions and/or related symptoms and your misconduct and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. Even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. 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 also noted that your October 1969 NJP involved much more than just the "mishandling" of \$0.30 cents worth of mail as you contend. You admitted during your May 1970 psychiatric evaluation that you intentionally sent the pay records of three (3) Marines to an entirely different country to get even for purportedly assaulting you.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 3.94 in conduct. Marine Corps regulations in place at the time of your discharge recommended a minimum trait average of 4.0 in conduct (proper military behavior), for a fully Honorable characterization of service. The Board noted that your record reflected four (4) NJPs and one SPCM. The Board concluded that your cumulative misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your serious misconduct and a repeated failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the
