



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

Docket No. 9154-24
Ref: Signature Date

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 March 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 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Marine Corps and began active duty on 2 June 1976. On 3 August 1976, you received administrative remarks (Page 11) counseling for unsatisfactory performance in recruit training. On 10 August 1976, an aptitude board reported that your medical condition existed prior to entry into naval service, had not been aggravated since service, and recommended discharge by reason of unsuitability with a general characterization of service.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file. Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214) reveals that you were separated from the Marine Corps, on 13 August 1976, with a General (Under Honorable Conditions) (GEN)

characterization of service, separation code of “GMJ1-B,” and reenlistment code of “RE-4. Your separation is consistent with an unsuitability discharge under MARCORSEPMAN 6016.1e. 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 and contentions that: (1) you had trauma to your head after a blanket party, (2) because of an injury sustained getting off the bus the 1st night at ■■■■■■■■■■, your knee was injured and you did not receive medical attention, (3) the pain became intolerable and you were not able to keep up with your platoon, (4) you were found outside of the squad-bay semi-conscious and sent by ambulance to the hospital complaining of a headache, shortness of breath, ringing in your ears, and contusions, (5) during pugil stick training, you suffered another head injury, dizziness, loss of concentration and finally discharged, (6) you had no memory of the event of the beating or ambulance ride, (7) you had classic symptoms of PTSD and TBI, and (8) you were finally diagnosed with chronic adjustment disorder. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

Because you contend that PTSD and other mental health issues impacted your misconduct, 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 submitted evidence of post-service diagnoses of Chronic Adjustment Disorder. Unfortunately, the evidence submitted does not note the etiology of, or rationale for the given diagnosis. Thus, it is not possible to state a nexus exists between his post-service diagnoses and the rationale for separation. Additional records (e.g., active-duty medical records, post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

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

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your GEN characterization of service remains appropriate. The Board determined the evidence you provided was insufficient to overcome the presumption of regularity in your case. Based on your record, the Board concluded that you were properly diagnosed with a non-disability condition that was unsuitable for further military service. Further, the Board concurred with the AO that there is insufficient evidence to attribute your discharge characterization of service to a mental health condition.

As a result, 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.

Sincerely,

4/10/2025

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Executive Director

Signed by: ■