



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. 9160-24
7973-03
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, considered your application on 24 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. Although you were afforded an opportunity to submit a rebuttal, 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 on the evidence of record.

This Board previously denied your request for an upgrade to your characterization of service and change to your reentry code on 3 August 2004. In that request, you asserted that your youth

should be considered a mitigating factor in evaluating your discharge upgrade, given the hardships you faced at the time of separation. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 characterization of service and your contentions that: (1) you incurred PTSD and other mental health concerns during military service. Specifically, as a result of the denial of previously approved leave, which you had requested to assist your pregnant wife, (2) you were a great Sailor beloved for your outstanding performance by all except your XO, (3) your XO discriminated against you, (4) your then wife sent you a letter informing you that she was pregnant and needed you right away, (5) you submitted a leave request that was approved by everyone in your chain of command to include your CO, (6) the day you were to depart on leave you were informed that your CO "flew off hours before me" and your XO, now acting as the CO, denied your leave request, (7) in order to assist your wife you went UA, (8) when you arrived to the hospital you discovered your wife "had surgery to abort my baby," (9) your wife later confessed that she had the abortion because her pregnancy was the result of an affair, (10) this caused you great mental anguish and you went home to your family to "get himself together, (11) although they reconciled, she began another affair and eventually began abusing drugs," (12) although you tried to help your wife, you were unable to do so and you and your wife eventually divorced. As a result, your career was ruined, and you were discharged with an Other Than Honorable (OTH) characterization although you were told your characterization would be General (Under Honorable Conditions). For purposes of clemency and equity consideration, the Board considered the evidence 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 6 January 2025. 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 received treatment for mental health concerns that is temporally remote and appears unrelated to his service. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

