



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

██████████
Docket No. 9735-24
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.

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 25 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. Although you were provided an opportunity to respond to the AO, 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 based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty service on 18 May 1987. Your enlistment physical examination, on 12 February 1987, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

After a period of continuous Honorable service, you immediately reenlisted for six (6) years and commenced a second period of active duty on 5 May 1991.

Your “Five-Year” physical examination, on 30 November 1993, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

On 20 July 1994, you were convicted at a Special Court-Martial (SPCM) of fraud/larceny related to the overpayment of basic allowance for quarters for approximately one (1) year after you moved into base housing. Your SPCM sentence included a reduction in rank to the lowest enlisted paygrade (E-1), confinement for no less than 133 days, and a discharge from the Navy with a Bad Conduct Discharge (BCD). On 14 October 1994, the Convening Authority (CA) approved the SPCM sentence.

Your separation physical examination, 4 November 1994, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. Ultimately, upon the completion of SPCM appellate review in your case, on 15 December 1995, you were discharged from the Navy with a BCD 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 contentions that: (a) at such time you were going through an abusive relationship with another Sailor who had murdered another Sailor, (b) you were a single mom at the time and you were unaware of the overpayment for which you were court-martialed, (c) due to the trauma of the abusive relationship with another Sailor, you feel the punishment was too harsh, (d) you suffered from major depressive disorder and anxiety, and (e) you would have never knowingly jeopardized your career. 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 23 January 2025. As part of the Board’s review, the Board considered the AO. The AO stated in pertinent part:

Petitioner contends she incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns from domestic violence incurred during military service, which may have contributed to the circumstances of her separation from service.

In November 1993, she completed an annual physical and denied mental health symptoms. In January 1994, she completed a physical as part of an application to become an Operations Specialist. She denied mental health symptoms or counseling, marital problems, or family advocacy intervention...She denied mental health symptoms during her November 1994 separation physical.

Early in her military service, the Petitioner was diagnosed with a mild adjustment disorder, attributed to stresses associated with entering military service. However,

there is no evidence that her symptoms were sufficiently distressing as to require on-going treatment during the remainder of her service.

Petitioner was evaluated on three occasions during her final period of active service and denied mental health symptoms repeatedly. Throughout her disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Temporally remote to her military service, the VA has granted service connection for a mental health condition. There is no medical evidence of a diagnosis of PTSD.

Unfortunately, available records are not sufficiently detailed to establish a nexus with her misconduct, given the absence of in-service reported mental health symptoms and the NJP for theft before the stressors of single parenthood and an abusive relationship.

The Ph.D. concluded, “it is my clinical opinion that there is in-service evidence and post-service evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence to attribute her misconduct to PTSD or another mental health condition.”

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 any mental health-related conditions or symptoms. Moreover, 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 misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. Additionally, the Board concluded that housing allowance fraud was not the type of misconduct that would be excused or mitigated by mental health conditions; even with liberal consideration. 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 noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing a characterization of discharge, even one awarded by a court-martial. However, the Board concluded that despite your contentions this was not a case warranting any clemency based on the gravity of your misconduct. The Board determined that characterization with a BCD appropriate when the basis for discharge is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor.

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 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,

5/8/2025

