



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

Docket No. 9932-24
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 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 5 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, 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)/mental health condition (MHC) (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). 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 United States Navy and began a period of active duty on 6 June 2001. On 18 August 2003, you received administrative remarks (Page 13) counseling for failing to meet body composition standards. On 1 June 2006, you received non-judicial punishment (NJP) for leaving appointed place of duty, disrespect to an officer, and disrespect to a petty officer. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. You waived your right to consult with counsel and to submit a statement. The commanding officer forwarded

your administrative separation package to the separation authority recommending your administrative discharge from the Navy with a General (Under Honorable conditions) characterization of service. The separation authority accepted the recommendation and you were so discharged on 15 June 2006.

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 undiagnosed autism spectrum disorder and post-traumatic stress disorder (PTSD), (2) you were in an abusive marriage and did not share with colleagues but thought the upper chain of command was aware, (3) you were told that your shift for a swim evolution was covered but it was not, (4) you miss social cues and did not know if the senior person you were talking to was being sarcastic, and you were told that no one ever told you your shift would be covered, (5) you were told you were being medically separated due to hearing voices, (6) you have never had auditory or visual hallucinations, (7) you did not want to be misdiagnosed and had three hospitalizations, (8) you have seen other Sailors hospitalized but they are still active, (9) you were told to communicate with your chain of command and you went back to work, (10) you were sitting gathering yourself when your NCO, stated he found you unfit, he had someone else in mind, and to go home and report the next day, and (11) you didn't think you would be kicked out. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

Because you contend that PTSD impacted your misconduct, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that she was diagnosed with a mental health condition in military service, or that she exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Within a year of separation from service, the VA granted service connection for PTSD.

Unfortunately, available records are not sufficiently detailed to establish a nexus with her misconduct, given the absence of information regarding her mental health concerns.

Although the Petitioner has received a mental health diagnosis indicating difficulty with social cues that may have been present during military service, it is difficult to attribute her misconduct to difficulty with social cues, given almost five years of successful performance prior to an acute period of misconduct leading to separation. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) would aid in rendering an alternate opinion.

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

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As explained in the AO, available records are not sufficiently detailed to establish a nexus with your misconduct, given the absence of information regarding your mental health concerns. In addition, it is difficult to attribute your misconduct to difficulty with social cues, given almost five years of successful performance prior to an acute period of misconduct leading to separation. Finally, the Board noted that you provided no evidence, other than your statement, to substantiate your contentions that your misconduct was due to a misunderstanding.

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 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,

3/28/2025

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Executive Director

Signed by: ■