



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

Docket No. 10841-24
Ref: Signature Date

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 28 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 the 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional; dated 4 March 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Marine Corps and began a period of active duty on 24 September 1991. Prior to commencing active duty, you received a waiver for admitted preservice use of marijuana and preservice arrests for accessory robbery, curfew violation, and disorderly conduct. On 21 October 1991, you were evaluated by a medical officer and admitted to a history of self-mutilation and treatment for depression and suicidal thoughts. Consequently, on 25 October 1991, you were notified of the initiation of administrative separation proceedings by reason of

fraudulent entry as evidence by your failure to disclose your preservice psychiatric issues. On the same date you decided to waive your procedural rights. The separation authority approved your uncharacterized entry-level separation discharge for fraudulent entry and you were so discharged on 30 October 1991.

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) it was never explained to you why you were considered a fraudulent entry and discharged for it, (b) you were fraudulently discharged and this experience has caused mental anguish, suffering from PTSD, and major depression. 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, the Board considered the AO. The AO stated in pertinent part:

During the Petitioner's brief military service, there is evidence that he acknowledged symptoms of depression that were treated for one year prior to his enlistment. This information was not disclosed during the pre-enlistment physical. It is likely that if the information were known prior to enlistment, the Petitioner would not have been accepted for military service. There is no evidence of error in his separation for fraudulent entry, as he failed to disclose his pre-service mental health history. Additionally, the Petitioner's history as described in his postservice treatment records is consistent with the in-service reported history. Temporally remote to his service, the Petitioner has also received a diagnosis of PTSD. This diagnosis is attributed to a post-service traumatic precipitant and appears unrelated to his military service.

The AO concluded, "there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence of error in the determination of fraudulent entry into service."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted you were appropriately assigned an uncharacterized entry level separation. Applicable regulations authorize an uncharacterized entry level separation if the processing of an individual's separation begins within 180 days of entry into active service. While there are exception to this policy in cases involving misconduct or extraordinary performance, the Board concluded neither exception applied in your case. Further, the Board noted you were appropriately processed and discharged based on your fraudulent enlistment into the Marine Corps. The Board determined your discharge is supported by the medical evidence included in your records that documents you failed to disclosed you were treated for disqualifying mental health conditions prior to your entry into the Marine Corps. Lastly, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. As explained in the AO, there is no evidence of error in your separation for fraudulent entry, as you failed to disclose your preservice mental health history.

As a result, 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 the 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,

5/19/2025

