



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

██████████
Docket No. 11340-24
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 7 May 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). 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.

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. Marine Corps and began a period of active duty on 18 May 1967. On 26 October 1967, you began a combat deployment to the Republic of Vietnam. On 15 March

1968, you were struck by a mortar round and was subsequently awarded the Purple Heart. Your combat deployment ended with your injury.

On 14 January 1969, you were arrested by civilian authorities for breaking and entering and larceny. On 27 January 1969, you were found guilty in civilian court for breaking and entering. Subsequently, you were notified of your deficiencies and counseled. It was explained to you that your frequent involvement of a discreditable nature with civil or military authority could result in a discharge from the service and that such discharge would be an Other Than Honorable (OTH). On 29 August 1969, you received non-judicial punishment (NJP) for failure to obey a lawful order. On 28 October 1969, you were arrested for auto theft. On 7 November 1969, you received your second NJP for failure to obey a lawful order.

On 25 November 1969, you were found guilty in federal district court for transporting in interstate commerce a stolen motor vehicle. Consequently, you were notified of administrative separation processing and you elected your right to a hearing before an administrative discharge board (ADB). The ADB met on 25 February 1970 and recommend your undesirable (OTH) discharge. Your Commanding Officer (CO) forwarded the ADB's recommendation to the Separation Authority (SA) and the SA accepted the recommendation. You were so discharged on 30 March 1970.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 30 October 1972 and February 1980, after determining your discharge was proper as issued. You also applied to this Board for an upgrade to your characterization of service and were denied relief on 5 January 1976. You further applied to Special DoD Discharge Review Program and your application was denied on 5 October 1977.

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 was not limited, your request to upgrade your characterization of service so you can obtain Department of Veterans Affairs benefits and your contention that you have been diagnosed with military service connected with PTSD. For purposes of clemency and equity consideration, the Board considered the totality of your petitioner that included a photo and medical documents.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO dated 16 March 2025. The Ph.D. stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition or that he exhibited any symptoms of a mental health condition while in military service. It is possible that he was suffering from PTSD as a result of combat operations in Vietnam that led to his being wounded and hospitalized. He has been diagnosed post-service (based on two outpatient encounters) with a provisional PTSD diagnosis. Unfortunately, the nature and severity of his misconduct is not typical behavior caused by symptoms of PTSD. Thus, although it is possible that he was suffering from PTSD, it cannot be said that his particular misconduct (some

leading to incarceration) was caused by PTSD. 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 Ph.D. concluded, "it is my clinical opinion that there is sufficient evidence of a diagnosis of PTSD that is temporally remote to service. There is insufficient evidence to attribute his misconduct to a mental health condition (PTSD)."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and two civilian convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Further, the Board considered the discrediting effect your civil conviction had on the Marine Corps.

Furthermore, the Board concurred with the AO and determined there is insufficient evidence to attribute your misconduct to a mental health condition (PTSD). As explained in the AO, the nature and severity of your misconduct is not typical behavior caused by symptoms of PTSD. Thus, although it is possible that you were suffering from PTSD, it cannot be said that your particular misconduct was caused by PTSD. Therefore, the Board 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.

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,

5/22/2025

