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

[redacted]
Docket No. 11694-24
Ref: Signature Date

[redacted]

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 1 August 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). Additionally, the Board also considered an advisory opinion (AO) furnished by a qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You originally enlisted in the U.S. Navy and began a period of active duty service on 30 January 1987. Your enlistment physical examination, on 23 December 1986, and self-reported medical history both noted no neurologic or psychiatric conditions or symptoms, or counseling. On 14 November 1988, you immediately reenlisted. On or about 24 July 1992 you extended your enlistment.

On 12 December 1995, this Board granted your petition to advance you to paygrade E-6;

retroactively effective to 16 December 1994. As part of the relief granted to you, this Board authorized DFAS to pay you all monies lawfully found to be due to you as a result of the correction.

On 11 January 1996, you routed a request chit to extend at your current duty station in order to receive maternal benefits for your spouse. Your command disapproved your request chit, on or about 18 January 1996, and noted in the "reason" section of the chit, in part, that your PRD and EAOS were "2/96." A note at the bottom of the request chit stated, "Resubmit after issues are worked out with detailer."

However, on 13 February 1996, you signed a "Page 13" entry (Page 13) where you declined to reenlist. The Page 13 entry stated in its entirety:

> I hereby acknowledge that I was interviewed in accordance with BUPERSMAN 3620150, OPNAVINST 1160.5, and OPNAVINST 1780. The advantages of immediate reenlistment, selected reserve affiliation and the GI Bill were explained to me. I hereby acknowledge that I do not intend to reenlist on board. I acknowledge that I am RECOMMENDED FOR PREFERRED REENLISTMENT (RE-R1).

Ultimately, on 13 February 1996, at the completion of your required active service, you were discharged from the Navy with an Honorable discharge characterization and assigned an RE-R1 reentry code.

On 3 February 2016, this Board denied your petition to change your EAOS to a date in 2010. You contended that you were forced out of the Navy by your chain of command as an act of reprisal. You had further contended that there was an error in the 1995 Board grant letter that substantially affected your decision to re-enlist in the Navy because you were not made whole by the Board's decision.

On 30 July 2018, this Board again denied your petition. The Board concluded that the documentation you provided was insufficient to establish the existence of probable material error or injustice.

On 17 June 2019, this Board denied your petition wherein you requested: (a) back pay and compensation for advancement to E-6 beginning December 1994, (b) promotion to E-7, (c) pay and allowances for 20 years of service, (d) retirement in the grade of E-7 with 20 years, citing obstructive sleep apnea and injustice due to incomplete corrective action by this Board in 1996, and (e) a date of discharge be changed to 13 February 2007 or later.

On 7 November 2024, the Department of Veterans Affairs granted you a service-connection for persistent depressive disorder and other specified anxiety disorder (acquired psychiatric disorder).

The Board noted that in your current petition you are requesting that your service record be corrected to state that you reenlisted in 1996 for six years and that your EAOS was in 2002. 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 change your service record to state that you reenlisted in 1996 for six years and that your EAOS was in 2002. You contend that: (a) you were forced out and/or deterred from enlisting in 1996 due to harassment and other events that took place, (b) you would have reenlisted and subsequently retired had you not been treated the way that you were, and (c) you were traumatized by the events that took place in 1996 and it has taken you years to recover from it. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 14 March 2025. As part of the Board's review, the Board considered the AO. 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. Temporally remote to his military service, the VA has granted service connection for a mental health condition. Unfortunately, available records are not sufficiently detailed to establish a nexus with his separation, particularly given his claims that his decision to not re-enlist was reasonable, given his experiences in service.

The Ph.D. concluded, "There is post-service evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute the Petitioner's separation from service to a 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 voluntary decision not to reenlist in February 1996. As a result, the Board concluded that your discharge from the Navy was not due to, or influenced by, mental health-related conditions or symptoms. 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 when you voluntarily decided against reenlisting at your EAOS.

As a result, the Board determined that there was no impropriety or inequity in 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. 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

8/14/2025

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