

DEPARTMENT OF THE NAVY

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

> Docket No. 11740-24 Ref: Signature Date

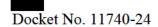
Dear Petitioner:

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.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session, on 3 February 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 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)/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).

You previously applied to this Board for a discharge upgrade and were most recently denied relief on 27 June 2000. The facts of your case remain substantially unchanged.

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 and and change your narrative reason for separation to Secretarial Authority. You contend that you have been harshly stigmatized by your Other Than Honorable (OTH) discharge, the punitive intent of your discharge has already served any legitimate purpose in correcting your behavior, and you have lived with the shame of your OTH for over 30 years. You further contend you suffer psychological trauma from your time in service, have been diagnosed with PTSD and Major



Depressive Disorder, and your discharge from the Marine Corps still pains you. Additionally, you the raised the issue of PTSD in your legal brief and provided supporting documentation from your therapist. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application, including your legal brief with exhibits.

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 four non-judicial punishments, 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. Additionally, the Board noted you were given multiple opportunities to address your conduct issues but continued to commit misconduct; which led to your unfavorable 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. Finally, regarding your contention of PTSD, the Board found by your own statement to your therapist that your mental health concern results from the fact and nature of your discharge and was not the result of anything that occurred during service. Thus, the Board determined there was no nexus between your PTSD and your misconduct.

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.

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.

