



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

Docket No. 12032-24
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 22 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 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). The Board also considered the advisory opinion (AO) furnished by 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 Navy and commenced active duty on 16 July 2001. On 20 July 2001, you were diagnosed with Early Dysthymic Disorder that existed prior to entry and recommended for administrative separation. On 25 July 2001, you were notified of pending administrative

separation processing by reason of defective enlistment and induction due to erroneous enlistment due to dysthymic disorder. You waived your rights to consult counsel or submit a statement. The separation authority subsequently directed your discharge with an uncharacterized Entry Level Separation and you were so discharged on 31 July 2001 with an RE-4 reentry code.

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 reentry code and your contentions that you were misdiagnosed with dysthymic disorder and were suffering from situational depression due to family stressors. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your statement, advocacy letters, and professional certificates you provided.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 8 April 2025. The AO stated in pertinent part:

Petitioner contends he suffered from mental health conditions, which may have contributed to the circumstances of his separation from service.

Petitioner entered into active duty Navy service in July 2001 with a waiver for pre-service marijuana use.

In July 2001, recruit Mental Health noted the following: "SR relates history of chronic depression since age 6, with repetitive suicidal behavior, both gestures and attempts including: trying to hang himself at ages 6 and 8, after parental discipline; cutting abdomen with a knife (superficial) in context of parental divorce, age 13; none since then. Saw a 'counselor' for 5-6 years, between ages 9 and 15. Meds were recommended, but parents declined this. Also relates hx suggestive of ADHD, but no diagnosis or tx. Significant alcohol and marijuana use, as detailed in psych tech assessment." He was subsequently diagnosed with Dysthymic Disorder based on a longstanding and continuous low-grade depression.

There is evidence that the Petitioner was diagnosed with Dysthymic Disorder that existed preservice dating back to age six as per Petitioner's anecdote during psychiatric evaluation. Petitioner claims he was depressed based on family stressors that immediately preceded his enlistment; however, this is not consistent with his in-service mental health records.

The AO concluded, "it is my clinical opinion that there is sufficient evidence of a long-standing mental health condition that existed prior to service. There is insufficient evidence that his rationale for separation was in error."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that you were properly discharged for erroneous entry and assigned an RE-4 reentry code. In making this finding, the Board concurred with the AO and determined that there is sufficient evidence of a long-standing mental health condition that existed prior to service and insufficient evidence that the rationale for your separation was in error. The Board found that the medical history you provided in 2001 substantiates your serious mental health issues from the age of six and is in direct conflict with your current contention that your mental health issues were due to situational stressors.

While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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.

Sincerely, _____

6/13/2025

■

Executive Director

Signed by: _____