



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

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Docket No. 2559-23  
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 18 September 2023. 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 3 August 2023. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 6 August 1987. On 4 March 1988, you received nonjudicial punishment (NJP) for assault. On 29 October 1988, you received a second NJP for willfully disobeying a lawful order, drunk and disorderly conduct, and wrongfully defecating on the deck. On 23 November 1988, you received a third NJP for two periods of unauthorized absence (UA) from the █ restricted men's muster, willfully disobeying a lawful order, disrespectful in language and deportment towards a petty officer, and making a false official statement. On 30 November 1988, you were notified of the initiation of

administrative separation proceedings by reason of misconduct due to pattern of misconduct and misconduct due to commission of a serious offense. On the same date you requested to have your case heard by an Administrative Discharge Board (ADB). On 19 December 1988, the ABD voted (3) to (0) that you committed misconduct due to pattern of misconduct and misconduct due to commission of a serious offense, and recommended you be discharged with an Other Than Honorable (OTH) discharge characterization of service. Your Commanding Officer concurred with the ADB recommendation. In the meantime, on 19 January 1989, you received a fourth NJP for failure to obey a lawful written order from your CO and making a false statement with the intent to deceive. On 18 February 1989, you were evaluated by a medical officer who determined that you were an alcohol abuser without dependency. On 20 March 1989, the separation authority approved the ADB recommendation and ordered you discharged by reason of misconduct due to commission of a serious offense. On 20 April 1989, you were so discharged.

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) you were suffering from Post Traumatic Stress Disorder (PTSD) and did not know why you were so angry, (b) you witnessed a plane accident while performing maintenance on the ship deck, (c) you and other shipmates were tasked with recovering the remains of the individual who perished during the incident, (d) you were traumatized by what you witnessed, however, your chain of command labeled you as a weak sailor, (e) you tried to overcome the memories of the incident you were under the impression that the chain of command did not care about other sailors. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner 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. During military service, he denied an alcohol use disorder. While alcohol use can become a medication strategy following exposure to a traumatic precipitant, the Petitioner's statement is not sufficiently detailed to establish clinical symptoms in service. He has submitted no medical evidence in support of his claims. It is also difficult to consider how false official statements could be attributed to PTSD or another mental health condition. Additional records (e.g., postservice medical records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) are required to render an alternate opinion.

The AO concluded, "it is my clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board noted that you were given multiple opportunities to correct your deficiencies but continued to commit misconduct. Lastly, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD or a mental health condition. As explained in the AO, you provided no evidence to support your claims. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. 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,

10/2/2023

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