



**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. 8155-23

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 limitations 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 8 April 2024. 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 service record, and 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 an advisory opinion (AO) from a qualified mental health professional and your response to the AO.

You enlisted in the United States Navy and commenced a period of service on 24 February 1981. On your enlistment application, you acknowledged a preservice arrest for underage drinking. You served honorably from 24 February 1981 to 25 December 1986. During this time, you report two traumatic events, the first occurring on 13 May 1983 involving a vehicular accident resulting in a broken ankle, and the second occurring on 8 September 1983 involving an assault committed by an unknown assailant that required medical treatment. Subsequent to these events, you were medically screened for reenlistment and submarine duty twice, both times reporting to be in "excellent" health and failing to disclose any mental health symptoms or concerns.

On 26 December 1986, you reenlisted and began your final period of service. On 30 April 1987, you were again medically screened for submarine duty, and again reporting to be in “excellent” health and failing to note any mental health symptoms or concerns. On 7 July 1988, you received non-judicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ) Article 86, for two periods of unauthorized absence (UA) totaling 23 hours, Article 109, for destruction of property, and Article 128, for assault. You did not appeal this NJP. In relation to this incident, you were evaluated by a military psychiatrist and diagnosed with alcoholism, alcohol abuse, possible early dependence. You were formally counseled and retained in the service, but directed to attend alcohol treatment, Alcoholics Anonymous (AA) meetings, and prescribed Antabuse. On 17 August 1988, you received your second NJP for violating UCMJ Article 86, for a period of UA, and Article 87, for missing movement. You were again formally counseled and retained in the service, but directed to attend anger management treatment and AA meetings.

On 29 November 1988, you were screened for alcohol dependence and diagnosed as psychologically dependent on alcohol. In December 1988, you began Level III Inpatient Treatment for alcohol use disorder, and in February 1989, you completed the rehabilitation program with a fair prognosis. On 11 July 1989, you underwent a Counseling and Assistance Center (CAAC) Evaluation, where it was determined that you remained psychologically dependent on alcohol. You were informed that outpatient treatment should be continued, and were directed to attend AA meetings and continue with the prescribed Antabuse with total sobriety. You were put on notice that continued alcohol abuse would be considered misconduct and that you would be considered a rehabilitation failure.

On 25 August 1989, you were disqualified for sub duty due to his continued alcohol abuse and dependency. On 14 September 1989, you were medically screened and determined to be a rehabilitation failure. The provider noted that you “[g]raduated from Level III in 2/89...began aftercare including Antabuse Rx- began drinking beer again when he learned he would once again be assigned to submarines....States that he drank intentionally to ‘get off subs- don’t like being locked up’- was hoping for surface assignment...having great difficulty controlling amount of EAOH drank at a sitting.” On 1 November 1989, you were discharge from the service due to your misconduct with an Other Than Honorable (OTH) characterization of service and an RE-4 reentry code.

The Board carefully considered all potentially mitigating and/or extenuating 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: (a) your desire to upgrade your characterization of service, (b) your assertion that you were struggling with undiagnosed mental health conditions during your service, and (c) the impact that your mental health had on your conduct and your alcohol abuse. For purposes of clemency and equity consideration, the Board noted that you provided documentation related to your post-service accomplishments.

In your request for relief, you contend that you incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns following the traumatic incidents that occurred early on in your service. You assert that your mental health symptoms contributed to your alcohol use disorder

and other misconduct. In support of your contentions, you provided evidence of a Department of Veterans Affairs (VA) service connection for depressive disorder and anxiety disorder with major depressive-like episodes, effective August 2018. You also provided civilian medical records from November 2022 to August 2023 listing a primary diagnosis of Major Depressive Disorder (MDD), recurrent episode, severe with anxious distress; and additional diagnoses of PTSD and Generalized Anxiety Disorder (GAD). As part of the Board review process, the BCNR Physician Advisor who is a licensed clinical psychologist (Ph.D.), reviewed your contentions and the available records and issued an AO dated 4 March 2024. The Ph.D. noted in pertinent part:

During military service, the Petitioner was diagnosed with an alcohol use disorder. Problematic alcohol use is incompatible with military readiness and discipline and does not remove responsibility for behavior. Temporally remote to his military service, the VA has granted service connection for a mental health condition. The Petitioner also has a civilian diagnosis of PTSD, is temporally remote to his military service, that he attributes to his military service. Unfortunately, his personal statement is not sufficiently detailed to establish a nexus with all of his misconduct, given his problematic alcohol use that preceded his entry in military service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The Ph.D. concluded, "it is my clinical opinion there is post-service evidence from the VA of a mental health condition that may be attributed to military service. There is post-service evidence from a civilian provider of a diagnosis of PTSD. There is insufficient evidence to attribute all of his misconduct to PTSD or another mental health condition, other than alcohol use disorder."

The Board considered your response to the AO, wherein you explain that the two traumatic events that occurred earlier in your service caused you to lose trust, have trouble sleeping, and have feelings of depression, which caused you to self-medicate with alcohol. You explain that you had a dramatic weight gain after these incidents due to the stress, as well as began experiencing mental health symptoms such as anger, violence, irritation, etc. You assert that the Navy failed to recognize that your misconduct was due to undiagnosed mental health issues, and instead attributed your behavior to your alcohol use. You also contend that there is no evidence of problematic alcohol abuse prior to your military and highlight that you repeatedly screened for sea duty. The Ph.D. reviewed your response and, as no new or materially different evidence was submitted, the original AO remained unchanged.

After thorough review, the Board concluded the potentially mitigating factors were insufficient to warrant relief. In accordance with the Kurta, Hagel, and Wilkie Memos, the Board gave liberal and special consideration to your record of service, and your contentions about undiagnosed mental health issues and the possible adverse impact on your service. Specifically, the Board felt that your misconduct, as evidenced by your NJPs and numerous counseling warnings, outweighed these mitigating factors. The Board considered the seriousness of your misconduct and the likely negative impact that your conduct had on the good order and

discipline of your command. The Board determined that alcohol abuse is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates.

In making this determination, the Board concurred with the AO that there was no convincing evidence that you suffered from any type of mental health condition while on active duty, or that any such mental health condition was related to or mitigated the misconduct that formed the basis of your discharge. Your in-service misconduct appears to be consistent with your alcohol use disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service. The Board noted that you did not report that you were suffering from any mental conditions during any of your submarine duty screenings, which would have triggered referral for treatment. Further, the Board agreed with the AO that your post-service diagnosis is temporally remote to your service and fails to draw a sufficient nexus to your underlying misconduct, especially since your sea service screenings occurred after the reported traumatic events and failed to highlight any mental health issues. As a result, the Board concluded that your misconduct was not due to mental health-related symptoms. The Board found that your active duty misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization.

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. 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,

4/18/2024

