



**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. 0835-24  
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 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 July 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 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.

You enlisted in the Marine Corps and commenced active duty on 22 September 1983. On 18 November 1983, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct; specifically, a positive urinalysis results for tetrahydrocannabinol (THC). You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 26 September 1985, you received Page 11 counseling for lack of financial responsibility and, on 1 October 1985, you received Page 11 counseling for lack of

integrity. In both cases, you were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 18 December 1985, you commenced a period of unauthorized absence (UA) that ended in your surrender on 4 February 1986. On 21 March 1986, you received Page 11 counseling for mismanagement of personal finances and repeated incidence of dishonored checks and were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 13 May 1986, you pleaded guilty at Special Court Martial (SPCM) to two specifications of UA (from 18 December 1985 to 4 February 1986 and from 2 May 1986 to 5 May 1986), wrongfully obtaining long distance telephone services by falsely pretending to be the owner of a calling card, and six specifications uttering a check without sufficient funds. You were sentenced to reduction in rank to E-1, forfeitures, confinement, and a Bad Conduct Discharge (BCD). Upon your release from confinement, you were placed in pre-trial confinement for pending General Court Martial (GCM) charges. While in pre-trial confinement, you were seen by a Clinical Psychologist and diagnosed with passive-aggressive personality disorder.

On 14 October 1986, you pleaded guilty at GCM to stealing nineteen blank checks (the property of another Marine), stealing a military identification card (the property of the United States government), eighteen specifications of forgery (nine specifications of falsely making the signature of the same Marine whose checks you stole and nine specifications of falsely uttering a check), and wrongfully altering another's military identification by placing your picture on it. You were sentenced to reduction in rank to E-1, forfeitures, confinement, and a Dishonorable Discharge (DD). The findings and sentences in both your SPCM and GCM were affirmed, and you were issued a Dishonorable Discharge (DD) on 11 December 1987. Subsequently, your BCD was remitted due to execution of your DD.

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 discharge characterization of service and your contentions that you were under the influence of illegal drugs at the time of the offense and have been diagnosed with mental health conditions. 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 process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 5 June 2024. The AO stated in pertinent part:

Petitioner contends he incurred "Bipolar Schizophrenia" during military service, which may have contributed to the circumstances of his separation.

Petitioner was appropriately referred for psychological evaluation during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service and the information he chose to disclose.

Unfortunately, he has provided no medical evidence to support his claims of another mental health condition.

His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service. Furthermore, it is difficult to consider how another mental health condition would account for financial mismanagement.

The AO concluded, “it is my clinical opinion there is insufficient evidence of a diagnosis of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than a possible personality disorder.”

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 your SPCM and GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. Additionally, the Board concurred with the AO and determined that there is insufficient evidence to attribute your misconduct to a mental health condition, other than a possible personality disorder. As explained in the AO, you provided no medical evidence in support of your claim and it is difficult to consider how another mental health condition would account for financial mismanagement.”

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a DD. 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,

8/8/2024

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Executive Director

Signed by: █