



**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. 1817-24  
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 5 August 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 Navy and commenced active duty on 3 September 2003. Between 5 December 2006 and 24 January 2007, you received counseling and education treatment for alcohol abuse at Naval Hospital Bethesda. On 11 January 2007, you received non-judicial punishment (NJP) for unauthorized absence (UA) and false official statement.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Certificate of Release or Discharge from Active

Duty (DD Form 214), you were separated on 4 October 2007 with a “General (Under Honorable Conditions)” (GEN) characterization of service, your narrative reason for separation is “Alcohol Rehabilitation Failure,” your reentry code is “RE-4,” and your separation code is “JPD,” which corresponds to alcohol rehabilitation failure.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 22 April 2010, based on their determination that your discharge was proper as issued.

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 characterization of service and your contentions that you developed an alcohol abuse problem due to increased stressors and untreated generalized anxiety disorder in 2007, you were initially offered and completed an alcohol and drug abuse program, you agreed to return to the program after relapsing but were denied participation, you were then referred to the disciplinary review board who recommended separation, you recognize the seriousness of substance abuse disorder but believe your GEN discharge was inequitable when compared to your prior years of exemplary service, , you were committed to your service and to our nation during the years prior to your mental health disorders, you volunteered to serve your command and community by coaching wrestling, participating in the P.I.E. Program, Color Guard, and serving as President of the JSA in addition to your regular duties, and that you are seeking upgrade so you can continue to serve your community. For purposes of clemency and equity consideration, you included copies of your service record documents, copies of your fitness evaluations, your college transcript, and a Neuropsychological Evaluation dated 24 June 2022.

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 26 June 2024. The AO noted in pertinent part:

During military service, the Petitioner was evaluated and diagnosed with an alcohol use disorder. There is no evidence that he was diagnosed with another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of another diagnosable mental health condition. Temporally remote to his military service, he has received diagnoses of ADHD and an anxiety disorder. While he may have experienced symptoms of ADHD during military service, there is insufficient evidence that his symptoms were sufficiently impairing as to warrant diagnosis or contribute to his misconduct. There is insufficient evidence to attribute his post-service anxiety disorder to 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 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, other than alcohol use disorder. There is insufficient evidence to attribute his misconduct to a mental health condition, other than alcohol use 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 NJP and alcohol rehabilitation failure, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct. The Board also considered the likely negative impact your misconduct had on the good order and discipline of your command. Upon examining your record, the Board further concluded you received appropriate and timely treatment for alcohol abuse but continued to use alcohol. Lastly, the Board believed that considerable clemency was already extended to you when you were separated for alcohol rehabilitation failure vice misconduct. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of a mental health condition that may be attributed to your military service, other than alcohol use disorder, and that there is insufficient evidence to attribute your misconduct to a mental health condition, other than alcohol use disorder. The Board further agreed, that while you may have experienced symptoms of ADHD during military service, there is insufficient evidence that your symptoms were sufficiently impairing as to warrant a diagnosis or contribute to your misconduct. Lastly, the Board determined that there is insufficient evidence to attribute your post-service anxiety disorder to military service.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. 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.

Sincerely,

8/26/2024

