



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

██████████
Docket No. 4696-24
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 25 September 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 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional and your response to the AO.

You enlisted in the U.S. Navy and entered active duty on 8 February 2000. Upon entry onto active duty, you were granted a waiver for your drug use and shoplifting while in the Delayed Entry Program.

On 11 May 2000, your end of obligated service was adjusted due to ten days of unauthorized absence (UA). Then, on 31 May 2000, you received NJP for larceny from a vending machine. On 4 August 2000, you started a period of UA that ended with you being apprehended on 4 October 2000. You subsequently received your second NJP, on 5 October 2000, for 61 days

UA, 13 hours UA, failure to go to your appointed place of duty, and missing ship's movement. On 7 December 2000, you received your third NJP for wrongful use of marijuana.

On 6 January 2001, you received your final NJP, for failure to obey a Navy regulation. Consequently, you were processed for administrative separation due to drug abuse and pattern of misconduct. Your Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation and directed you be discharged for drug abuse. You were so discharged on 6 March 2001.

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 contention that you sought out medical attention for mental health and was ignored. For purposes of clemency and equity consideration, the Board noted you provided medical documents, your DD Form 214, marriage certificate, and birth certificate.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO dated 6 September 2024. The Ph.D. stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Temporally remote to his military service, he has received diagnoses and treatment from civilian providers for PTSD and other mental health concerns that appear unrelated to his military service. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 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."

In response to the AO, you provided a statement with additional clarification of the circumstances of your case. In particular, you described a mental health episode that occurred after the ██████████ bombing. You claim that your ship was deployed in the area near where the ██████████ was attacked and this resulted in your mental health episode. After reviewing your rebuttal evidence, the AO remained unchanged.

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 fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service

