



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

██████████  
Docket No. 5129-24  
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 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 4 December 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, 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, dated 13 September 2024. Although you were provided an opportunity to comment on the AO, you chose not to do so.

You entered active duty with the Marine Corps on 9 August 1982. On 12 October 1983, you were formerly counseled on not being recommended for promotion due to being charged with driving under the influence (DUI). On 5 November 1983, you were formerly counseled on receiving a DUI, which resulted in you being recommended for rehabilitation. On 14 December 1983, you successfully completed the Naval Alcohol Safety Program. On 11 January 1984, you received non-judicial punishment (NJP) for absence from appointed place of duty and incapacitated for the performance of duty.

On 27 February 1984, you were admitted into the Alcohol Rehabilitation Department for alcoholism and drug abuse. On 4 April 1984, you were discharged from the rehabilitation program due to alleged drug abuse and lack of motivation for treatment. On 12 July 1984, you received an additional NJP for absence from appointed place of duty. Consequently, you were notified of pending administrative separation action by reason of misconduct due to minor disciplinary infractions. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The separation authority (SA) approved the recommendation, and you were so discharged on 5 November 1984.

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 and contentions that you incurred mental health concerns (PTSD) during military service, your Sargent gave you a hard time, and you developed a drinking problem while serving in the Marine Corps. You further contend that you worked in the aviation profession for more than 30 years, have two children, three stepchildren, six grandchildren, and worked with various support groups helping others cope with mental health problems. 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, a qualified mental health professional reviewed your request and provided the Board with an AO on 13 September 2024. The mental health professional stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service other than substance abuse/dependence. He was afforded treatment; however, it appears as though he did not utilize the program seriously. His statement is not sufficiently detailed to provide a nexus with his misconduct. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

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

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, outweighed the potential mitigating factors. In making this finding, the Board considered the likely seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board also considered the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board concurred with AO that there is insufficient evidence to attribute a mental health condition to your military service or misconduct. As explained in the AO, there is no evidence you were diagnosed with a mental health condition while in military service other than substance

abuse/dependence. You was afforded treatment; however, it appears as though you did not utilize the program seriously. The Board observed that you were given the opportunity to correct your conduct deficiencies and substance abuse issues but chose to continue to commit misconduct; which led to your OTH discharge. Finally, while the Board took into consideration your contention your Sargent gave you a hard time and the Marine Corps is responsible for your drinking problem. The Board noted that there is no evidence in your record, and you submitted none, to substantiate your allegations.

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 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,

1/6/2025

