



**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. 5482-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 9 December 2024, has carefully examined your current request. 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, and applicable statutes, regulations, and policies, to include to the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (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) of a qualified mental health provider, which was previously provided to you. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You previously applied to this Board for a discharge upgrade and were denied on 12 May 2020. The summary of your military remains substantially unchanged

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 change

to you reason for separation. You contend that you were determined to serve in the military in spite of a difficult, abusive childhood but experienced abuse and hazing from peers on your ship during your Mediterranean cruise due to your race and southern accent; which you believe aggravated your childhood trauma and ultimately caused you to developed PTSD. You attribute your misconduct to your PTSD symptoms and believe you deserve an upgrade under liberal consideration policies. You specifically allege being duct taped to a stanchion, forced to take excessive watches up to 18 hours on duty and seven days per week, threatened to be reported for refusing to take orders and for being racist if you refused to comply with orders, routinely called inbred, redneck, and stupid, stereotyped as a racist and abused by brig guards that were African American, incurring a head injury after guards shoved you into a steel bulkhead, and needing medical attention but instead being referred to a chaplain whom you claim reported you for threatening the Captain and crew. With respect to your misconduct, you assert that the increased duties took a toll on you, leaving you exhausted and causing you to oversleep your alarm, resulting in your unauthorized absences. You also state that your disrespect offense resulted from lashing out at senior personnel due to their abuse.

With respect to your in-service diagnosis of personality disorder (PD), you believe there is insufficient evidence in your medical records to support such diagnosis, although you acknowledge that you received a psychological evaluation during your confinement which diagnosed you as having an antisocial PD with borderline features, to include symptoms of anxiety and depression, self-harm, and alcohol dependence (in remission). You state that you returned to the ship in fear and kept your head down, avoiding interaction with others to avoid conflict, and becoming so anti-social that you began talking to yourself and problems sleeping. In support of your application and for clemency and equity purposes, you provided a personal statement and declaration, civilian medical records, a disability rating decision from the Department of Veterans Affairs (VA) which reflects service connection for treatment purposes of Mental Disorder effective November 2018, a psychological review of your mental health concerns, an addendum review of your medical records, your official military personnel file (OMPF), comparison Docket Numbers from previous Board decisions, and a character letter.

Because you primarily contend that PTSD or another mental health condition affected the circumstances of the misconduct which resulted in your discharge, the Board also considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an overnight inpatient hospitalization. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. There is no evidence that he was diagnosed with another mental health condition in military service, although there is evidence of history of alcohol use disorder identified in service.

Temporally remote to his military service, he has received service connection for Mental Disorder. Civilian providers have assigned a diagnosis of PTSD, considered to have been exacerbated by military service.

There are inconsistencies in the Petitioner's record that raise concern regarding the reliability of his report and his candor depending upon the situation (emphasis added). In pre-enlistment physicals for both the Navy and the ANG, he denied any history of mental health symptoms or treatment. However, he described significant symptoms of PTSD to his post-service providers and reported a history of pre-service substance use and mental health treatment to providers in the Navy.

During the Navy, the Petitioner's reported history of substance use and problematic behavior was considered characterological. While it may be that his behaviors could be better conceptualized as symptoms of PTSD, it is difficult to attribute his misconduct solely to in-service experiences, given the extensive pre-service history reported at various points in time.

The AO concluded, "it is my clinical opinion that there is post-service evidence from the VA of a mental health condition that may be attributed to military service. There is post-service civilian evidence of a diagnosis of PTSD that may be attributed to military service in part. There is insufficient evidence to attribute his misconduct solely to PTSD or another mental health condition attributed to military service.

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 non-judicial punishments and summary court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board concurred with the clinical conclusion that, although there is post-service evidence from the VA of a mental health condition that may be attributed to military service and post-service civilian evidence of a diagnosis of PTSD that may be attributed to the military in part, there is insufficient evidence to attribute your misconduct solely to PTSD or another mental health condition attributed to military service. In this regard, the Board gave considerable weight to the concerns identified within the AO regarding the inconsistencies of your reports to various medical professionals and mental health providers over the years; which the Board agreed raised significant doubt with respect to the candor of your contentions regarding your purported in-service traumas. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command.

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. 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 the 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 is attached 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,

1/8/2025

