



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

██████████  
Docket No. 6586-24  
10553-14  
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.

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, considered your application on 16 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, 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 afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to the Naval Discharge Review Board (NDRB), seeking an upgrade to your characterization of service. The NDRB denied your requests, on 8 January 2001, after

determining your discharge was proper as issued. Although your request was denied, the NDRB noted your continuous Honorable service was missing from your DD Form 214 and directed Navy Personnel Command (NPC) correct this error. On 1 February 2002, NPC issued you a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) annotating your continuous Honorable service.

This Board also previously denied your request for an upgrade to your characterization of service on 2 September 2015. The facts of your case remain 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 to upgrade your discharge character of service and contentions that: (1) you completed his first term and were serving a second term when your error of injustice occurred, (2) you served for eight years, (3) the military has made great progress in the area of understanding different mental health issues. Adjustment and anxiety disorder was looked upon as having anger management, (4) you believe if you had the resources that are now available, your outcome would have been different, (5) your transition from sea duty to shore duty brought unexpected challenges that impacted both your naval and personal life, and (6) your challenges were exacerbated by the limited mental health resources available during your service. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 31 October 2024. The AO stated in pertinent part:

During military service, the Petitioner was evaluated and diagnosed with an alcohol use disorder (AUD). He received treatment for AUD and domestic violence and was considered a treatment failure. There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided evidence of a diagnosis of PTSD that is temporally remote to his military service and appears unrelated. Unfortunately, his personal statement is 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 condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition other than AUD. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms of a condition other than AUD in service. There is insufficient evidence to provide a nexus with his misconduct, particularly given UA that preceded his marital and occupational stressors. 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 that there is insufficient evidence of a mental health condition that may be attributed to military service, other than AUD. There is insufficient evidence to attribute his misconduct to a mental health condition, other than AUD."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your non-judicial punishments and civilian convictions, 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. Further, the Board considered the likely discrediting effect your civilian convictions had on the Navy. Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to military service or your misconduct, other than AUD. As explained in the AO, there is insufficient evidence to provide a nexus with your misconduct, particularly given the misconduct that preceded your marital and occupational stressors. Further, the Board noted that you were given multiple opportunities to correct your deficiencies but continued to commit misconduct; which led to your OTH discharge.

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 and commends you for your community involvement, 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,

1/14/2025

