



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

██████████
Docket No. 7601-24
Ref: Signature Date

████████████████████
██████████████████
██████████████████

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 January 2025. 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 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) (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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). 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 on the evidence of record.

During your enlistment processing, a waiver was granted for a theft disclosure. You enlisted in the U.S. Navy and began a period of active duty on 9 November 1999. On 1 February 2000, you were issued administrative remarks documenting your retention in the Navy despite failing to disclose pre-service civilian involvement of charges of theft, fraud, possession of marijuana,

possession of drug paraphernalia, and juvenile charges of assault, curfew violation, and underage drinking. On 24 May 2000, you received your first nonjudicial punishment (NJP) for a 20-day period of unauthorized absence (UA). On 6 June 2000, you received a second NJP for an additional period of UA and for failure to obey a lawful order. In October 2000, you were hospitalized following a superficial self-inflicted laceration on your left wrist/forearm. During your hospitalization, you provided a urine sample that subsequently tested positive for marijuana. Consequently, you were notified of your pending administrative processing by reason of drug abuse, at which time you waived your right to consult with counsel and to present your case to an administrative discharge board. Ultimately, the separation authority directed you be discharged with an Under Other Than Honorable (OTH) characterization of service and, on 13 November 2000, you were so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) you were diagnosed with borderline personality disorder during your service and prescribed medication and, (2) you have since been diagnosed with complex post-traumatic stress disorder (PTSD). For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

Based on your assertions that you incurred PTSD and other mental health concerns during military service, which may have contributed to the circumstances of your discharge, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 20 November 2024. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during her enlistment and properly evaluated during an inpatient hospitalization. Her personality disorder diagnosis was based on observed behaviors and performance during her period of service, the information she 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. Temporally remote to her military service, she has received diagnoses of PTSD and other mental health concerns. Her provider has treated her for more than a year and has not observed symptoms of personality disorder during that extended period of time. It is possible that the unique stressors of military service heightened problematic character traits that are not expressed in the civilian environment. It is possible that mental health symptoms identified as characterological in service have been re-conceptualized as PTSD and other mental health concerns with the passage of time and increased understanding. Unfortunately, there is insufficient evidence to attribute her misconduct to a PTSD or another mental health condition, particularly given pre-service behavior that was undisclosed prior to enlistment. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) may aid in rendering an alternate opinion.

The AO concluded, “it is my clinical opinion that there is post-service evidence from the Petitioner and a civilian provider of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence to attribute her misconduct to PTSD or another mental health condition.”

After a 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 and positive urinalysis, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that 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 members. Additionally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As the AO explained, your post-service diagnoses of PTSD and other mental health concerns are temporally remote to your military service. Lastly, the Board noted you were provided several opportunities to correct your conduct deficiencies; however, you continued to commit additional misconduct. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

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. 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,

3/6/2025

