



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. 8190-24
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 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 24 February 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 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) (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 and your response to the AO.

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 enlisted in the Marine Corps and commenced active duty on 24 October 1988. On 6 October 1989, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct related to disorderly conduct. You were advised that any further deficiencies in your performance and/or conduct may result in

disciplinary action and in processing for administrative discharge. On 20 March 1990, you were again issued a Page 11 for driving while under the influence of alcohol. On 30 March 1990, you received non-judicial punishment (NJP) for this occurrence.

Subsequently, you were evaluated by a medical doctor for possible substance abuse and recommended to attend the Level II Substance Abuse Program. You completed this program on 11 May 1990 but, on 1 June 1990, you were issued a third Page 11 regarding your frequent involvement with civil authorities, after you were incarcerated by civil authorities for nine days.

You issued another Page 11, on 8 August 1990, for disregarding base regulations by driving a motor vehicle with a suspended driver's license. On 10 August 1990, you received NJP for the misconduct.

In December 1990, you deployed in support of

Following your deployment, on 27 September 1991, you received NJP for unauthorized absence (UA) and incapacitation for performance of your duties due to intoxication. On 22 January 1992, you again received NJP for disobeying a lawful order not to leave the confines of camp.

On 25 March 1992, you were evaluated for substance abuse and were found to be dependent on alcohol. A treatment plan was recommended for you; however, you declined the offer of Department of Veterans Affairs inpatient treatment.

On 14 April 1992, you were notified of pending administrative separation processing with an Other Than Honorable (OTH) discharge by reason of misconduct due to minor disciplinary infractions. You waived all rights available to you except for the right to obtain copies of documents used in the separation process. Your Commanding Officer (CO) recommended your discharge, in accordance with the notification, and the Commanding General Concurred with your CO. You were so discharged on 9 June 1992.

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 Memo. These included, but were not limited to, your desire to upgrade your discharge characterization and change your narrative reason for separation. You contend that you suffered from misdiagnosed and untreated chronic and severe PTSD and Chronic Alcohol Use Disorder during military service. You further contend your characterization of service was erroneous due to your undiagnosed mental health conditions and specific effects they had on your misconduct. In the alternative, you contend you were an alcohol abuse rehabilitation failure under current policy; which requires you receive no worse than a GEN discharge. For the purposes of clemency and equity, the Board considered the materials you provided in support of your application.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 5 January 2025. The AO noted in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. He demonstrated consistent pattern of Alcohol Dependence. He has provided post-service diagnoses of Other Specified Trauma and Stressor Related Disorder which is a diagnosis given when one does not meet full criteria for PTSD. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his requested change for narrative reason for separation. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would 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. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, you submitted additional supporting documentation that provided additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

After thorough review, the Board concluded your 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 found it showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that may be attributed to military service and insufficient evidence to attribute your misconduct to a mental health condition. As the AO noted, there is no evidence that you were diagnosed with a mental health condition while in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. While the Board considered the rebuttal evidence you provided, they agreed it was insufficient to find a nexus between your mental health condition and your misconduct. Finally, the Board considered that a number of your alcohol related misconduct occurred prior to your deployment, and you were diagnosed and treated for your alcohol dependence.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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,

3/19/2025

