



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

Docket No. 8255-24  
Ref: Signature Date

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 12 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 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) furnished by a qualified mental health professional. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You previously applied to this Board for an upgrade to your characterization of service. You were denied relief on 5 January 1984 and 21 February 1991. The summary of your service remains substantially unchanged from that addressed in the Board's most recent decision.

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 change your narrative reason for separation. You contend that: (1) your capability to serve was seriously impacted by the racial discrimination you endured in service; this racial trauma mitigates any incidents of misconduct, (2) your mental health symptoms stemmed from racial trauma and impacted your capability to serve, and (3) policies and procedures under which you were discharged differ in material respects to those currently applicable. There is substantial doubt that you would have received the same discharge under current policies and procedures. For purposes of clemency and equity consideration, the Board considered the documentation 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 3 December 2024. The AO stated in pertinent part:

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. Temporally remote to his military service, he has received a diagnosis of PTSD attributed to military experience. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct, particularly given the chronic, repetitive, and extended nature of his UA. More weight has been given to contemporary statements that his UA was to earn money for his family, over current attributions that his UA was to avoid race-based traumatic precipitants. 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 post-service evidence from a civilian provider of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to solely to PTSD or another mental health condition."

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 three special courts-martial convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. The Board observed that you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to the vacation of a previously suspended Bad Conduct 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.

Further, the Board concurred with the AO that, while there is post-service evidence from a civilian provider of a diagnosis of PTSD that may be attributed to military service, there is insufficient evidence to attribute your misconduct to solely to PTSD or another mental health condition. As the AO explained, the available records are not sufficiently detailed to establish a

nexus with your misconduct; particularly given the chronic, repetitive, and extended nature of your unauthorized absence. The Board agreed there is no evidence that you were diagnosed with a mental health condition in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Finally, the Board determined your diagnosis by a civilian physician of PTSD is temporally remote to your military service. Therefore, The Board determined that the record clearly reflected that your active-duty misconduct was willful and that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions.

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, 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

3/10/2025

