



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

Docket No. 8475-24  
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.

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 3 March 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. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Marine Corps after disclosing pre-service marijuana use and receiving a waiver for civil offenses of driving under the influence (DUI), driving while intoxicated (DWI), and careless and imprudent driving. You commenced active duty on 25 April 1984.

On 26 February 1985, you were issued an administrative remarks (Page 11) counseling for keeping live ammunition in the barracks. On 22 September 1985, you were apprehended for DWI at the Main Gate of [REDACTED] On 22 October 1985, you were issued Page 11 counseling for an alcohol related incident resulting in revocation of driving privileges. 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 12 February 1986, you were evaluated by the Joint Drug and Alcohol Counseling Center as an alcohol abuser and directed to attend a one-day alcohol awareness class. On 16 June 1986, you received non-judicial punishment (NJP) for dereliction in performance of duties for negligently failing to secure the front gate of the Armory. Additionally, you were issued Page 11 counseling concerning deficiencies in your performance and/or conduct and were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 18 January 1987, you were charged by civil authorities with DWI and driving with a suspended license. On 30 January 1987, you received a substance abuse evaluation by a medical professional who found you to be alcohol dependent. You attended Level III in-patient treatment from 13 February 1987 to 13 March 1987. On 15 April 1987, you were notified of a requirement to participate in mandatory Family Advocacy rehabilitative sessions as a result of a domestic violence incident and Family Advocacy assessment that established spousal abuse. On 20 July 1987, you received NJP for unauthorized absence (UA) from place of duty.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct. You elected to consult with legal counsel and waived your rights to submit a statement or have your case heard by an administrative discharge board. The separation authority directed your discharge with an OTH characterization of service and you were so discharged on 11 September 1987.

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 change your discharge characterization of service and your contentions that you were having family problems, “took the early out” thinking that you received an Honorable discharge, and you need medical benefits due to toxic water exposure while stationed at ■■■■■■■■■■. For purposes of clemency and equity consideration, the Board considered your statement and the advocacy letter you provided.

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 15 January 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health issues during military service, which may have contributed to the circumstances of his separation from service.

Petitioner submitted a letter from a nurse practitioner indicating psychotropic treatment for Generalized Anxiety Disorder and PTSD (October 24). He also submitted a character reference letter.

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 was diagnosed with Alcohol Dependence and was afforded inpatient and follow-up

care. He submitted a temporally remote post-service letter from a nurse practitioner indicating medication treatment for anxiety and PTSD, however the letter does not reference the rationale for, or etiology of the given diagnoses. Both his statement and the letter lack sufficient detail to provide a nexus between his post-service mental health diagnoses and in-service misconduct.

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.”

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 and in-service alcohol related incidents, 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. 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 explained in the AO, the evidence you provided is temporally remote to your military service and does not provide a rationale for your diagnoses. 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities.

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, 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.

As a part of the Caring for ■ Act of 2012, qualifying Veterans can receive all their health care (except dental care) from Department of Veterans Affairs (VA) if they served on active duty at ■ for at least 30 days between August 1, 1953 and December 31, 1987. The Board recommends you contact your nearest VA office to determine your eligibility for care.

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,

3/24/2025

