



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

██████████
Docket No. 9051-24
0623-02
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 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 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 a rebuttal, you chose not to do so.

This Board previously denied your request for an upgrade to your characterization of service and change to your reentry code on 13 March 2003. In that request, you asserted that granting your request would enable your return to military service, enhance your self-esteem, and provide a second chance to succeed where you previously fell short. You also noted that your discharge occurred just two days before reaching the two-year threshold required for benefits eligibility and that approving your request would allow you to access medical and educational benefits.

Additionally, you highlighted your post-discharge efforts, including enrollment in technical college, consistent employment, and participation in spiritual counseling. The summary of your service remains substantially unchanged from that addressed in the Board's previous 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 characterization of service and change your narrative reason for separation, separation authority, separation code and reentry code to reflect Secretarial Authority or Completion of Required Active Service. You contend that: (1) you did not have any mental health conditions or issues prior to joining the Navy and were, initially, a dedicated Sailor progressing well, (2) approximately one year after you began your active duty career, you had a decline in your performance and an increase in acts of relatively minor misconduct, (3) your decline can be traced back to September 1999, when you were attacked by three fellow Sailors, sustaining multiple blows to the face and head, (4) these attacks resulted in a mild traumatic brain injury (TBI) and mental health issues, leading to increased alcohol use, abuse, and eventual dependence, (5) you tried multiple times to express your concern over your alcohol use and to seek treatment but were denied and/or prohibited at least three times, (6) because of regulations regarding handling alcohol and substance abuse cases and providing treatment, you were separated, (7) it can be assumed that these changes in policy would have significantly changed the landscape of your options as it is very likely you would have and could have received treatment and be allowed to continue to lead a successful career in the Navy, and (8) your evidence outlining diagnosed mental health conditions and their role in your misconduct suggests that the characterization of your discharge was particularly harsh and improper, especially in light of the Hagel, Kurta, and Wilkie Memos. 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 14 February 2025. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on multiple occasions, including during an inpatient hospitalization. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he 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.

Unfortunately, he has provided no medical evidence to support his claims of PTSD, TBI, and other mental health concerns. While there is evidence of a possible head injury during an altercation, there is no evidence of long-term symptoms consistent with TBI. His in-service misconduct appears to be consistent with his diagnosed

personality disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service.

Furthermore, it is difficult to consider how PTSD, TBI, or another mental health condition would account for his misconduct, given his repeated denial statements in service regarding problematic alcohol use and his poor performance prior to the September 1999 altercation. Additionally, statements that his misconduct was minor and excusable are not consistent with avoidance behavior associated with PTSD or another mental health concern. 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 diagnosis of PTSD, TBI, or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD, TBI, or another mental health condition other than alcohol use disorder or personality disorder."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted your misconduct, as evidenced by your four non-judicial punishments, outweighed these mitigating factors. In reaching this decision, the Board considered the following: (1) you were granted enlistment waivers for pre-service driving under the influence and reckless driving, speeding and no proof of insurance infractions, (2) you were offered inpatient treatment for alcohol use disorder but declined, (3) you were given the opportunity to correct your conduct deficiencies but continued to engage in misconduct, (4) significant clemency was extended in your case, as you were processed and discharged with a General (Under Honorable Conditions) characterization of service solely for a pattern of misconduct, despite a record that met the criteria for separation due to commission of a serious offense—both of which could have warranted an Other Than Honorable characterization, and (5) characterization of service is determined, in part, by military behavior and overall trait averages, which are calculated based on marks assigned during periodic evaluations. At the time of your separation, a fully Honorable characterization of service required a minimum overall trait average of 2.8 and a military behavior average of 3.0. Your recorded military averages did not meet the required thresholds.

Additionally, the rationale you presented in your previous Board hearing differed significantly from your current contentions. This unexplained inconsistency adversely affected the Board's assessment of your credibility. Lastly, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to PTSD, TBI, or another mental health condition other than alcohol use disorder and personality disorder. As explained in the AO, your personality disorder preexisted your military service by definition and it is difficult to consider how PTSD, TBI, or another mental health condition would account for your misconduct; given your repeated denial statements in service regarding problematic alcohol use and your poor performance prior to the September 1999 altercation.

As a result, the Board concluded your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during service. Therefore, 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.

Sincerely,

3/18/2025

