



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

Docket No. 9337-24  
Ref: Signature Date

Dear |

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 on 21 February 2025, has carefully examined your current request. 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 provided an opportunity to respond to the AO, 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 based on the evidence of record.

You previously applied to this Board for an upgrade to your characterization of service on two occasions. In your first request, you contended that your discharge unjust because you suffered from undiagnosed PTSD. The Board denied your request on 12 August 2019. In your second

request, you contended that you had PTSD from an explosion on a Navy ship, you had been homeless for over ten years, you were currently sober and housed, and that you suffered from a severe psychotic disorder. The Board denied your request on 21 May 21. 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 change your discharge characterization of service and your current contentions that you suffered from a viral syndrome in boot camp and subsequently experienced stress and anxiety that led to misconduct due to side effects from prescribed medication. You also contend that you incurred PTSD during military service. For the purpose of clemency and equity consideration, the Board considered the evidence 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 8 January 2025. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to the circumstances of his separation.

[In] July 1989, he received medical treatment for a diagnosis of bronchitis, after he was found "coughing up blood."

In October 1989, he was evaluated by a military psychiatrist "due to concern over member's repeated NJP's and claims...of excessive stress due to flight deck work environment...This serviceman is fully oriented and aware. Suffers no delusions/hallucinations, is not suicidal nor alcohol or drug dependent...His history is one of lifelong antisocial behavior...that makes him a poor candidate for Naval service."

The Petitioner contended that he incurred severe respiratory symptoms from January 1987 to January 1989, which contributed to PTSD symptoms and subsequent misconduct. He provided a statement in support of his experience.

Petitioner submitted evidence of an 18-day hospitalization in May 1991 for pneumonia. During the hospitalization, he was also diagnosed with Dysthymia Disorder, Mild. Additional information was needed to rule out the possible presence of Anti-Social Personality Disorder.

Petitioner presented an August 2024 letter from his civilian mental health provider describing disability associated with a diagnosis of Schizophrenia.

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. The in-service assessment indicated the Petitioner met criteria for no formal mental health diagnosis but demonstrated problematic

personality traits. These problematic character traits were also noted in his hospitalization 18 months after his separation from service. He has also received treatment for another mental health condition that is temporally remote to his military service and appears unrelated.

A diagnosis of Dysthymia Disorder indicates mild depression symptoms lasting for two years or more. However, more weight has been given to his in-service mental health evaluation over the post-service assessment of Dysthymia Disorder within two years of separation of service. Moreover, his in-service misconduct appears to be consistent with problematic characterological traits, particularly given his pre-service misconduct that appears to have continued in service.

The AO concluded, “it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed 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 that your misconduct, as evidenced by your non-judicial punishments, summary court-martial, and civilian conviction, 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 also considered the likely discrediting effect your civilian conviction had on the Navy. The Board noted that you were given multiple opportunities to address your conduct issues but you continued to commit misconduct; which led to your Other Than Honorable discharge for commission of a serious offense. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. The Board also agreed that there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition. As explained in the AO, your in-service misconduct appears to be consistent with problematic characterological traits; particularly given your pre-service misconduct that appears to have continued in service.

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, \_\_\_\_\_

3/14/2025

