



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

■  
Docket No. 9423-24  
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 12 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 afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 2 August 1994. You subsequently completed this enlistment with an Honorable characterization of service on 1 August 1997. On 5 July 2000, you enlisted into the Marine Corps and began another period of active duty. You subsequently completed this enlistment with an Honorable characterization of service and immediately reenlisted 31 October 2003. On 14 December 2005, you were found guilty by a general court-martial (GCM) of larceny. As punishment, you were received a fine, confinement, reduction in rank, and a Bad Conduct Discharge (BCD). Ultimately, the BCD was approved at all levels of review and you were so discharged on 2 February 2008.

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 or “claim coverage” for your period of Honorable service. You contend that: (1) you incurred PTSD during your military service, (2) you were innocent of the court-martial charges, (3) your wife committed thefts with her paramour and framed you for it, and (4) prior to a “moment of bad judgement,” you completed a period of Honorable service in the Navy and Marine Corps. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application but observed you did not provide documentation describing post-service accomplishments or advocacy letters.

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 15 January 2025. 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. He has provided no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. Inconsistencies in the Petitioner’s in-service statements raise doubt regarding his candor or the reliability of his recall. 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. There is insufficient evidence to attribute his misconduct to PTSD.”

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 GCM, 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 also considered the negative impact your conduct likely had on the good order and discipline of your unit. Further, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD and insufficient evidence to attribute your misconduct to PTSD. As the AO explained, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with your misconduct. Furthermore, inconsistencies with your in-service statements raise doubt regarding your candor or the reliability as a historian. 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. 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. Finally, the Board

observed that your DD Form 214 already annotates your period of continuous Honorable service from 5 July 2000 to 30 October 2003.

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.

In reviewing your record, the Board believes that you may be eligible for veterans' benefits which accrued during your previous periods of Honorable service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (VA). In this regard, you should contact the nearest VA office concerning your rights, specifically, whether or not you are eligible for benefits based on your prior period of Honorable service.

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,

3/28/2025

