



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

██████████
Docket No. 9487-24

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 14 April 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 the 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, 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)/mental health condition (MHC) (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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a response 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 on the evidence of record.

You enlisted in the U.S. Navy and commenced a period of active duty on 19 May 1982. After a period of continuous Honorable service, you immediately reenlisted on 17 July 1985 and commenced another period of active duty. On 17 October 1985, you were issued administrative

remarks due to derogatory contents in your August 1985 to October 1985 performance evaluation. While pending adjudication for drug related misconduct, you were medically evaluated and recommended for level III inpatient treatment on 20 December 1985. In January 1986, you were hospitalized for alcoholism and diagnosed with Alcohol Dependence, Continuous, Mixed Substance Abuse, Continuous, and Mixed Personality Disorder with Prominent Narcissistic and Antisocial Features, Severe. The medical provider noted in their report, "There is no indication for further psychiatric intervention on his behalf and it is doubtful further treatment will affect therapeutic change in this patient."

On 13 February 1986, a special court-martial (SPCM) found you guilty of two specifications of failure to obey a lawful order from your commanding officer and of wrongfully using cocaine. You were sentenced to be reduced in rank/rate to E-1, to forfeit \$426.00 pay per month for three months, and to a Bad Conduct Discharge (BCD). However, your BCD was suspended for a period of six months. On 27 February 1986 and 28 March 1986, you received two nonjudicial punishments (NJP) for multiple instances of unauthorized absence and for willfully disobeying a lawful order issued by a superior commissioned officer. Administrative remarks, dated 20 June 1987, document your assigned marks of 2.0 in Initiative, Reliability, Military Bearing, and Personal Behavior for the period of 16 October 1985 to 20 June 1986. The remarks also stated, "During this reporting period, [Petitioner's] conduct has been unsatisfactory. He was lax in obeying commands and regulations, undependable, consistently unreliable, and an administrative burden. Specifically, he has positive urinalysis for cocaine, PCP, and THC; failed to participate in command directed urinalysis on two occasions; 25 periods of unauthorized absence, ranging from a few minutes to several day; court-martialed and received reduction in rate to E-1, forfeiture of \$400.00 pay per month for three months, and a Bad Conduct Discharge (BCD suspended for six months); vacation of BCD suspension; and served time in custody of San Diego Jail for failure to comply with a court order. He is not recommended for advancement and retention in the naval service." As a result of your continued misconduct, your suspended BCD was vacated and on 11 March 1987, you were so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 and contentions that you reenlisted in the U.S. Navy in 1985 following an Honorable discharge, you began struggling with alcohol addiction within the first six months of your second tour, this addiction contributed to the majority of your conduct issues, medical verification from the Naval staff in ████████ confirms your diagnosis, you received a suspended BCD following a Captain's Mast, it was suspended with the understanding that you would enter the Navy's substance abuse treatment program, you sought an extension of your civilian DUI probation during your treatment but the court ruled it a violation, you were incarcerated for two weeks as a result of the court's ruling and this led to your UA status and the execution of the suspended BCD. You further contend that you were a fully active alcoholic with no stable home at discharge, this leading to five years of homelessness and multiple treatment attempts, a member of Alcoholics Anonymous helped you begin recovery in 1989, you have maintained sobriety since August 1989, and you continue to face challenges related to the long-term effects of addiction and your discharge status. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application, which consisted solely of your application and excerpts from your military record.

Based on your assertions that you incurred mental health issues during military service, which may have contributed to the circumstances of your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 11 February 2025. The AO stated in pertinent part:

There is evidence the Petitioner was diagnosed with substance use disorders and Personality Disorder. There is no evidence that he was diagnosed with a mental health condition. It appears as though his misconduct was the result of both alcohol and substance abuse/dependence and significant characterological issues (Personality Disorder). There are medical notes from 1983 and 1985 (pre-active duty service) which note “alcohol on breath,” and other references to alcohol use. He was provided treatment in the form of inpatient hospitalization with recommendations for follow-up care, however his misconduct continued after being afforded treatment. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

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 a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your SPCM and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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 noted that you were granted significant clemency when your BCD was initially suspended. Finally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to your military service and misconduct. As explained in the AO, although it appears as though you received treatment in the form of inpatient hospitalization with recommendations for follow-up care, your misconduct continued after being afforded treatment. Therefore, the Board determined that your discharge was proper and equitable under the standards of law and discipline and that the discharge accurately reflects your conduct during your second period of service.

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 the 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 is attached 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,

4/21/2025

