



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

██████████  
Docket No. 10508-24  
Ref: Signature Date

████████████████████  
██████████████████  
██  
██████████████████  
██████████████████

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 Board waived the statute of limitation 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 25 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, and applicable statutes, regulations, and policies, to include to 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) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 6 Aug 2002. You deployed in support of the Global War on Terrorism from January 2003 through April 2003. On 13 October 2004, you accepted nonjudicial punishment (NJP) for a violation of Article 128 of the Uniform Code of Military Justice (UCMJ) after committing an offense of aggravated assault. You deployed again from December 2004 through March 2005. During this period, you received a psychological evaluation for complaints of feeling sad, unhappy, and hopeless. You reported a

pre-service history of stealing, shoplifting, and truancy. You were prescribed medication and were recommended to attend weekly individual therapy. Your evaluation resulted in a diagnosis of adjustment disorder with depressed mood and personality disorder, not otherwise specified, with schizotypal traits. These diagnoses remained unchanged in a follow-up evaluation in March 2005.

On 21 July 2005, you received a second NJP for assault and an Article 134 offense due to disorderly conduct and drunkenness. Subsequently, you were processed for administrative separation by reason of misconduct due to a pattern of misconduct and due to commission of a serious offense, and you elected to waive your right to a hearing before an administrative discharge board. You were ultimately discharged under Other Than Honorable (OTH) conditions, on 12 September 2005, for the primary reason of a pattern of misconduct.

You previously applied to the Naval Discharge Review Board (NDRB) contending that your poor decision making led to the misconduct which resulted in your discharge. The NDRB reviewed your request on 2 October 2007 and denied relief.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and change your narrative reason for separation to "Secretarial Authority." You contend that, in the years since your discharge, you have been diagnosed with Major Depressive Disorder (MDD) and Post-Traumatic Stress Disorder (PTSD), these conditions were aggravated when you were injured on the flight deck of your ship and after your ship engaged in live fire with Somali pirates who were attempted to hijack the vessel, you exhibited symptoms of these conditions during your military service, mental health conditions mitigated or excused the misconduct which resulted in your OTH discharge, and that your misconduct does not outweigh the severity of your diagnosis. You also allege that you experienced racial discrimination from superiors and peers, these experiences included being called racially derogatory names, you were bullied and harassed, and tricked into drinking urine. In support of your claims and for the purpose of clemency and equity consideration, you submitted a personal statement, service health records, service records, your medical records from the Department of Veterans Affairs (VA), the NDRB's review of your request, the Navy's Equal Opportunity policy statement, policy memos applicable to the Board's review, and a reference case decided by the Army Discharge Review Board.

Because you contend that PTSD or another mental health condition affected the circumstances of your discharge, the Board also considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His adjustment and personality disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. 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 the military. Post-service, he has received a diagnosis of PTSD that has been attributed to his military experiences.

It is possible that his in-service diagnosis of adjustment disorder has been reconceptualized as PTSD with the passage of time and increased understanding. However, it is difficult to attribute his misconduct to symptoms of unrecognized PTSD, given his failure to report any trauma-related symptoms in his in-service mental health evaluation and treatment.

While it is possible that his misconduct could be attributed to irritability associated with symptoms of depression, it is difficult to make that distinction, given his in-service diagnosis of personality disorder. His misconduct could be considered as consistent with problematic characterological traits. 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, “There is post-service evidence from a civilian provider and the VA of a diagnosis of PTSD that may be attributed to military service. There is in-service evidence another mental health condition (adjustment disorder) that may be attributed to military service. There is insufficient evidence to attribute his misconduct solely to PTSD or another mental health condition, other than personality disorder.”

After thorough review, the Board concluded the potentially mitigating factors you submitted for consideration were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed the mitigating factors you submitted for consideration. 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, concurred with the AO that there is insufficient evidence to attribute your misconduct solely to PTSD or another mental health condition, other than personality disorder. As explained in the AO, it is difficult to attribute your misconduct to symptoms of unrecognized PTSD, given your failure to report any trauma-related symptoms in his in-service mental health evaluation and treatment. In addition, the Board found insufficient evidence of record to support your contentions that the [REDACTED], a [REDACTED] class amphibious assault ship, was attacked by pirates during either of your two deployment cycles. 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. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

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 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,

5/21/2025

