



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

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Docket No. 10586-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 26 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 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 and your response to the AO.

You previously applied to this Board for an upgrade to your characterization of service and were denied relief on 24 October 2012. Before this Board's denial, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 6 November 1995, based on their determination that your discharge was proper as issued. The summary of your service remains substantially unchanged from that addressed in the Board's most recent 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 discharge character of service so that you may be able to access veterans' benefits through the Department of Veterans Affairs (VA). You contend that: (1) you have been working extremely hard to put your life in order, (2) you suffer with anxiety, depression, and high blood pressure, (3) you have realized that as a young man you allowed drinking and substance abuse to plague your life, (4) there have been several times in your life where you have been homeless, in jail, and without adequate resources for you to have a purposeful and self-sustaining life, and (5) since those times you have received treatment, an active member in the fellowship of alcoholics anonymous for over 20 years, and you attend church regularly with your spouse and children. For purposes of clemency and equity consideration, the Board considered the documentation 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 25 February 2025. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His alcohol use 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. There is no evidence of a diagnosis of PTSD in service and he has provided no medical evidence to support his claims. He has submitted evidence of other mental health diagnoses that are temporally remote to his military service and appear unrelated. Unfortunately, there is insufficient evidence to attribute his misconduct to mental health concerns, given chronic and repeated unauthorized absence (UA) in service and preservice substance use that appears to have continued in service. 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 insufficient evidence of a diagnosis of PTSD or another mental health concern that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health concern, other than an alcohol use disorder."

In response to the AO, you provided additional rebuttal evidence. After reviewing your rebuttal evidence, the AO conclusion was revised to state, "There is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct 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 punishment and summary court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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. Additionally, the Board noted

that marijuana and cocaine use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board observed you were given an opportunity 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. Further, the Board concurred with the AO that, while there is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service, there is insufficient evidence to attribute your misconduct to PTSD or another mental health concern; other than an alcohol use disorder. As the AO explained, there is insufficient evidence to attribute your misconduct to mental health concerns, given your chronic and repeated UA in service and preservice substance use that appears to have continued in service. 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 otherwise not be held accountable for your actions. The Board found that your misconduct was intentional and made you unsuitable for continued naval service. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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 and commends you for your post-discharge rehabilitation, 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,

4/8/2025

