



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. 10687-24
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.

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 21 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 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 and your response to the AO.

You enlisted in the Navy and began a period of active duty on 7 June 2001. On 17 January 2002, you received non-judicial punishment (NJP) for unlawful entry onto a naval station by climbing over a gate. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 4 April 2002, you received NJP for two specifications failure to obey an order, underage drinking, driving under the influence, and drunk

and disorderly conduct. On 25 April 2002, you received NJP for five occurrences of UA by failing to go to restricted muster. On 8 January 2003, you received another NJP for driving under the influence and underage drinking.

Subsequently, you were notified of pending administrative separation processing with an other than honorable (OTH) discharge by reason of misconduct due to pattern of misconduct, and misconduct due to commission of a serious offense. You waived all rights but for the right to obtain copies of documents used in the separation process. On 5 February 2003, your commanding officer recommended your discharge with an OTH stating, "I have paid particular attention to...ensure his success. At every turn [he] has met these attempts at rehabilitation with failure..."¹ The separation authority the recommendation and you were so discharged on 19 February 2003.

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 and change your narrative reason for separation and separation code to reflect Secretarial Authority. You contend that: your misconduct resulted from your horrendous upbringing, you were a victim of horrific sexual and physical abuse perpetrated by your mother and stepfather, as a result, you were placed in foster care and eventually transferred between 11 homes before being placed in a state hospital, you were sent to live with your drug addicted stepfather after being discharge from the hospital, and then, at the age of 17, were abandoned and homeless. Despite all of this, you managed success in high school where you spent four years excelling at NJROTC and graduated in the top quarter of your 200 student class. You ultimately joined the Armed Forces, which was your dream all along, you tried to assimilate, but childhood PTSD kept rearing its head. Your medical records indicate the Navy was aware of your unfolding mental health crisis and, in April of 2002, you were seen for a mental health consultation by the Navy. You informed the doctor, "I am stuck in the past and would like some therapy" and you have worked hard to improve your life and mental health since your discharge. You argue that you have more that served your punishment for the acts committed as a very young and wounded man and simply seek peace and recognition in the years ahead. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application, including your legal brief with exhibits, your personal statement, four advocacy letters, service record documents, and a Biopsychosocial Indicators of a Substance Abuse Problem document.

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 on multiple occasions during his enlistment. His alcohol use disorder and

¹ The Board noted that your commanding officer's endorsement contains an additional NJP for UA from your appointed place of duty on 20 May 2002. The Board was unable to find documentation pertaining to that NJP and noted the dates of some of the other annotated NJPs were inconsistent with the NJP administrative notes in your record. However, the documented offenses, other than the 20 May 2002 NJP, were consistent with your record.

other mental health diagnoses were 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 that may be attributed to military service. Unfortunately, there is insufficient evidence to attribute his misconduct to mental health concerns other than alcohol use disorder. 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, "while there is evidence of mental health concerns suffered during military service, 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 alcohol use disorder."

In response to the AO, you submitted additional supporting documentation that provided additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

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 NJPs, 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 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. Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to PTSD or another mental health concern. As the AO explained, there is insufficient evidence to attribute your misconduct to a mental health condition other than alcohol use disorder. Lastly, the Board agreed with the AO that additional records, such as those described by the AO, above, may aid in rendering alternate opinion.

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.

Sincerely,

5/2/2025

[REDACTED]

Executive Director

Signed by:

[REDACTED]