



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

██████████  
Docket No. 10732-24  
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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional, dated 26 February 2025, which was previously provided to you. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 11 January 1989. Prior to commencing active duty, you admitted preservice use of a controlled substance-marijuana. On 26 April 1989, you received nonjudicial punishment (NJP) for failure to obey a lawful order by

wrongfully wearing civilian clothes. On the same date, you were counseled concerning your previous infraction resulting in NJP and advised that failure to take corrective action could result in administrative separation. On 21 November 1989, you were evaluated by a medical officer as a result of command directed drug / alcohol dependency. During the evaluation, you reveal that you were possibly involved in a DUI incident and admitted to drinking socially and while underage.

Between 27 November 1989 and 2 December 1989, you received NJP on for two instances of unauthorized absence (UA) from appointed place of duty, drinking underage, and failure to obey a lawful order. You were again counseled concerning deficiencies in conduct such as lack of proper military bearing and attitude as evidence by your previous NJPs. You were advised that failure to take corrective action could result in administrative separation. On 26 January 1990, you refused the offer to receive Level III Alcohol Rehabilitation. Consequently, you were advised that administrative separation under MILPERSMAN 3630550 could be initiated as a result of alcohol rehabilitation failure. On 27 January 1990, you received a fourth NJP for failure to obey a lawful order.

On 30 January 1990, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense, misconduct due to pattern of misconduct, and alcohol rehabilitation failure. You decided to waive your procedural rights and your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation and directed you be discharged due to commission of a serious offense. You were so discharged on 12 March 1990.

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 for a discharge upgrade and contentions that: (a) you were suffering from PTSD while in bootcamp, (b) you were assaulted by your petty officer and were told that there was nothing you could do about it, (c) your promised school was closed while entering bootcamp causing you to be given you the option to be assigned to another rating, (d) you inquired about Seal Team training and were denied, (e) you asked to talk to your supervisor; however, your petty officer disregarded your request and began punishing you, (f) your petty officer took you behind the barracks and make you do push ups while placing his foot on your neck, (g) you remembered feeling comatose, unable to talk, eat, and staring into space. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition without any other additional documentation.

As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on multiple occasions. 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 evaluations performed by the mental health clinicians. There is no evidence of a diagnosis of PTSD and the Petitioner has provided no evidence to support his claims.

Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD."

After thorough review, the Board concluded these 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. Additionally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD. As explained in the AO, there is no evidence of a diagnosis of PTSD and you provided no evidence in support of your claims. 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.

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. 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. 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 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,

4/30/2025

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Executive Director

Signed by: ■