



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

██████████
Docket No. 10806-24
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 contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session 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 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 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)/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 and your response to the AO.

You previously applied to this Board for a discharge upgrade and were denied on 25 March 2015. In your previous application, you contended that your discharge was unjust since you were denied leave after making all the arrangement to attend your nephew's funeral. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

The Board carefully considered all potentially mitigating factors for your present application 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 change your discharge characterization of service and change your narrative reason for separation, separation code, and reentry code to reflect a Secretarial Authority discharge. You contend that you suffered from PTSD while serving and, had your PTSD and grief been recognized and treated during service, your military career, and life, would have taken a much different course. You also contended that you have worked hard since discharge towards mental health recovery and are tirelessly devoted to helping fellow veterans. For purposes of clemency and equity consideration, the Board considered the material you provided in support of your application; which included your legal brief with exhibits.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 17 March 2025. The AO noted in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition or that he exhibited any symptoms of mental health condition while in military service. He submitted evidence of diagnoses of Generalized Anxiety Disorder and Major Depressive Disorder that are temporally remote to service. Furthermore, he did not mention the traumatic event (witnessing a sailor jump ship) during any investigative or separation proceedings. 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 sufficient evidence of mental health conditions post-service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, you submitted rebuttal evidence identifying errors¹ in the AO. 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 two non-judicial punishments, 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 concurred with the AO and determined that there is insufficient evidence to attribute your misconduct to a mental health condition. The

¹ The Board noted your AO rebuttal in which you dispute any evidence of cocaine use or AIDS in your record. However, the Board observed your record contains message traffic from 3 November 1995 that annotates your urinalysis tested positive for cocaine metabolites. Additionally, your record contains an investigating officer statement, dated 5 November 1995, which summarizes your statement to the investigator in which you initially blames your positive urinalysis on second hand smoke and later admitted to struggling with personal stress. In that summary, it also references your concern that your friends believe you suffer from AIDS or some other disease.

