



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

██████████  
Docket No. 11093-24  
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 limitations 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 7 May 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)/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 an advisory opinion (AO) from a qualified mental health professional; dated 13 March 2025. Although you were provided an opportunity to comment on the AO, you chose not to do so.

You entered active duty with the Marine Corps on 28 October 1989. On 5 December 1990, you received non-judicial punishment (NJP) for assaulting a non-commissioned officer (NCO) and drunk and disorderly conduct. On 11 April 1991, you received an additional NJP for assaulting an NCO and drunk and disorderly conduct. As a result, you received an alcohol dependency evaluation that diagnosed you as alcohol dependent and referred you to inpatient Level III Alcohol Rehabilitation Treatment. On 7 June 1991, you successfully completed the Level III Alcohol Rehabilitation Treatment Program and returned to full duty.

On 17 July 1991 and 5 May 1992, you were formerly counseled on your poor judgement and personal irresponsibility. On 5 August 1992, you received a psychological evaluation that diagnosed you with Intermittent Explosive Disorder, Personality Disorder with Schizoid and Passive Aggressive Behavior Features, and Alcohol Abuse in partial remission. On 13 September 1992, you received NJP for being in an unauthorized absence (UA) status for 18 days. Consequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. After you elected to waive your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation and you were so discharged on 6 November 1992.

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 and contentions that you were suffering from mental health concerns (PTSD) during military service, your PTSD was directly related to your misconduct, you accepted a reduction in force discharge, you did not realize you were receiving an OTH discharge, and an upgrade would allow you to seek treatment through the Department of Veterans Affairs. For purposes of clemency and equity consideration, the Board considered the totality of your application that included the character letters you provided.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The mental health professional stated in pertinent part:

That there is evidence the Petitioner entered into service with history of anger problems and alcohol dependence. In-service, he was diagnosed with Intermittent Explosive Disorder, Personality Disorder and Alcohol Dependence. There is no evidence of PTSD or any symptoms thereof. He did not submit any medical evidence in support of his claim. His misconduct is congruent with the same issues/behaviors exhibited pre-service and are most likely due to characterological issues and alcohol abuse/dependence. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his requested change for characterization of service upgrade. 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 insufficient evidence of PTSD that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition (PTSD)."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, outweighed the potential 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 and 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. The Board also concurred with AO that there is insufficient evidence to attribute your misconduct to a mental health condition (PTSD). As pointed out in the AO, there is no evidence of PTSD or any symptoms thereof and you did not submit any medical evidence in support of your claim. 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.

Further, 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. Finally, contrary to your contention that you did not realize you were receiving an OTH discharge, the record clearly shows that you were notified and acknowledge the basis for your administrative separation due to misconduct. In that notification, you were informed that the least favorable characterization of service you could receive was an OTH.

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 mitigated 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,

5/21/2025

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