



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

[REDACTED]
Docket No. 11248-24
Ref: Signature Date

[REDACTED]

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 25 July 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 U.S. Navy and began a period of active duty service on 23 June 1992. Your pre-enlistment physical examination, on 2 June 1992, and self-reported medical history both noted no psychiatric or neurologic issues, history, conditions, or symptoms.

While still in your initial training pipeline, on 10 December 1992, you received non-judicial punishment (NJP) for assaulting another service member. You did not appeal your NJP. On the same day, your command issued you a “Page 13” retention warning (Page 13) documenting your NJP. The Page 13 expressly advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation.

On 28 November 1994, you commenced an unauthorized absence (UA). While in a UA status you missed the movement of your ship, [REDACTED] Your UA terminated on 5 December 1994; however, less than two (2) hours later you commenced another UA. Your second UA terminated on 19 December 1994.

On 25 January 1995, you received NJP for: (a) missing movement, (b) both of your UAs (totaling 21 days), (c) breaking restriction, and (d) a domestic violence assault where you pulled your spouse out of a vehicle, threw her to the ground, and broke her collar bone. You received the maximum punishment permitted at NJP. You did not appeal your NJP.

On or about 9 February 1995, you underwent a psychiatric evaluation. The Medical Officer (MO) diagnosed you with a “personality disorder not otherwise specified with borderline features.” The MO also determined the following: (a) you were not considered mentally ill, (b) you possessed a longstanding disorder of character and behavior which was of such severity as to interfere with you serving adequately in the Navy, (c) although you were not suicidal or homicidal, you were a continuing risk to do harm to yourself or others, and (d) you did not possess a severe mental disease or defect...and were considered competent.

On 14 February 1995, your command notified you of administrative separation proceedings by reason of: (a) misconduct due to the commission of a serious offense, and (b) convenience of the government on the basis of a personality disorder. You consulted with counsel and elected to request a hearing before an administrative separation board (Adsep Board).

On 24 March 1995, the Assistant Supply Officer (ASO) drafted a memorandum for the ship’s Legal Officer entitled, “Fitness for Continued Productive Service ICO [REDACTED].” In the memo, the ASO stated, in part:

[REDACTED] is unfit for future naval service in any capacity. He is a misfit who has demonstrated a level of immaturity and irresponsibility that proves beyond any question that, given the opportunity, he would continue to fail in even the simplest capacity.

[REDACTED] is an extremely weak and dim individual who resents authority, has an uncontrollable temper, and represents, an imminent threat to anyone in authority over him. He has been found guilty of striking his wife and has

conveyed death threats to his supervisors. He possesses no sense of propriety and the poorest of judgement.

On 13 June 1995, an Adsep Board convened in your case. At the Adsep Board, you were represented by counsel and you provided sworn testimony on your own behalf. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously found that you committed misconduct, determined that you possessed a personality disorder, and concluded that you should be separated with an under Other Than Honorable conditions ("OTH") discharge characterization. Your defense counsel did not submit a post-board letter of deficiencies. On 27 June 1995, your commanding officer (CO) recommended to the Separation Authority (SA) that you should receive an OTH characterization of service.

On 26 July 1995, the SA approved and directed your OTH discharge. However, in the interim, you commenced another UA and you did not return to military control prior to your separation. Ultimately, on 18 September 1995, you were separated from the Navy for misconduct in absentia with an OTH discharge characterization and assigned an RE-4 reentry code.

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 change to your reason for separation. You content that: (a) although you are still serving your country the best way possible, you have goals to advance and exceed at your job but cannot do so because of your undesirable discharge, (b) you love your country and the United States Navy and wish to remain close to the United States Navy and veterans who have served, (c) this same respect, motivation, and devotion drive your request as you wish to be counted among the United States Navy's honorably discharged members, which you consider to be an enormous part of your life, and (d) you were not given a reasonable opportunity to mitigate or correct your mistake/behavior, instead, you were administratively separated. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 7 April 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

During military service, the Petitioner was properly evaluated on two occasions. His personality 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. A personality disorder diagnosis is pre-existing to military service by definition and indicates lifelong characterological traits unsuitable for service. There is no evidence that he was diagnosed with another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of another mental health condition. He has provided no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct. There are inconsistencies with his current

statement and his service record that raise doubt regarding his candor or the reliability of his recall over time.

The Ph.D. concluded, "There is insufficient evidence of mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than personality disorder."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any mental health conditions and/or related symptoms and your misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. The Board also 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.

The Board noted that one of your offenses was particularly egregious in that it involved domestic violence and the infliction of grievous bodily harm to your spouse. The Board concluded that your cumulative misconduct was not minor in nature and that your serious misconduct and repeated failure to conform to basic military standards of good order and discipline all further justified your OTH characterization.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. In making this finding, the Board took into consideration the comments from your chain of command which uniformly established that your attitude, performance, and misconduct supported your separation and assigned characterization of service. The Board determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor.

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 in 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,

7/29/2025

