



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

██████████  
Docket No. 11253-24  
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 23 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional. 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 on 25 June 1990. Upon entry onto active duty, you admitted to illegal use of a controlled substance while in the Delayed Entry Program but a waiver was not required.

On 6 October 1991, you were arrested and charged with driving under the influence (DUI). You were issued a counseling warning for substandard performance and required to complete Level I treatment and follow the one-year aftercare. You were further advised that any further deficiencies in your performance and or conduct may result in disciplinary action and or in processing for separation. On 17 October 1991, you received non-judicial punishment (NJP) for drinking underage. You were then notified, on 22 October 1991, to remain eligible for continued service you must participate in Level I program regimen and failure to cooperate in and to complete this regimen will constitute grounds for separation processing.

On 24 December 1991, you received a second counseling warning for drinking underage and alcohol abuse. You again were advised that any further deficiencies in your performance and or conduct may result in disciplinary action and or in processing for separation. On 16 January 1992, you were found guilty of DUI by the Magistrate Court. On 31 January 1992, an alcohol dependency evaluation was completed and recommended Level III treatment. On 6 February 1992, you received your second NJP for unauthorized absence and obtaining services under false pretenses.

Subsequently, you were notified for separation for civilian conviction, commission of a serious offense, and pattern of misconduct. You elected an administrative discharge board (ADB) which was convened on 10 April 1992. The ADB found evidence that you committed misconduct and recommended your discharge with an Other Than Honorable (OTH) characterization of service. The Separation Authority accepted the recommendation and directed you to be discharged for commission of a serious offense. Prior to discharge, you were offered in-patient treatment at a Veteran's Administration Hospital and you refused treatment. You were so discharged on 15 May 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 for a discharge upgrade and contentions you suffer from major depression, feared for your life while on active duty, and, throughout your time in Desert Storm, you became angry, experienced mood swings, and spoke about hurting others. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO dated 27 February 2025. The Ph.D. stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition, other than an alcohol use disorder. There is no evidence of a diagnosis of PTSD or TBI, and the Petitioner

has provided no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, which appears consistent with his diagnosed 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 Ph.D. concluded, "there is in-service evidence of a mental health condition (alcohol use disorder). There is insufficient evidence of a diagnosis of PTSD or TBI. There is insufficient evidence to attribute his misconduct to PTSD, TBI, or another mental health condition, other than alcohol use disorder."

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 two NJPs, multiple counselings, and civilian conviction, 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 considered the discrediting effect your civil conviction had on the Navy.

Furthermore, the Board concurred with the AO and determined there is insufficient evidence to attribute your misconduct to PTSD, TBI, or another mental health condition, other than alcohol use disorder. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition, other than an alcohol use disorder. Additionally, you provided no medical evidence to support 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. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions.

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 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,

5/8/2025

