



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

██████████
Docket No. 11370-24
Ref: Signature Date

████████████████████
████████████████
██████████████

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 19 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 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 on 30 March 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 5 August 2002. On 7 January 2007, you received nonjudicial punishment (NJP) for wrongful use of a controlled substance. Based on your misconduct, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse. You decided to consult with counsel and requested a case hearing by an Administrative Discharge Board (ADB). On 13 February 2007, the ADB voted (3) to (0) that you committed misconduct due to drug abuse and recommended that you were administratively separated from the Navy with a General (Under Honorable

Conditions) discharge characterization of service. The separation authority approved the ADB recommendation and you were so discharged on 22 March 2007.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 9 October 2014, after determining your discharge was proper as issued.

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 you are currently 100 percent disabled through the Department of Veterans Affairs (VA) and 70 percent of the rating is for PTSD. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

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

There is no evidence that the Petitioner suffered from a mental health condition or that he exhibited any symptoms of a mental health condition while in military service. In the 2014 NDRB, he contended that he never used drugs. He made no mention of PTSD or any symptoms thereof in addition to denying the use of illegal substances. Presently, he contends that PTSD symptoms mitigated use of wrongful substances. This may indicate a lack of candor on the Petitioner's behalf. He has submitted VA rating noting 70% service-connection for PTSD, however there are no corresponding documents provided to review etiology of or rational for the given diagnosis. His personal statement is not sufficiently detailed to provide a nexus between any mental health condition and his misconduct. 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 a post-service diagnosis of PTSD. There is insufficient evidence to attribute his misconduct 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. Further, 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 that you suffered from a mental health condition or that you exhibited any symptoms of a mental health condition while in military service. Finally, based on your changing contentions regarding your drug abuse, the Board questioned your candor in this matter.

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, 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 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,

6/4/2025

