



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

██████████
Docket No. 11408-24
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 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 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

You enlisted in the Navy and commenced active duty on 29 May 1973. On 20 May 1976, you received an Honorable (HON) discharge upon your release from active duty and transferred to the Navy Reserve. On 17 June 1979, you reenlisted and again received an HON discharge on 16 August 1981 upon completion of your service obligation. After reenlisting, you commenced your final period of active duty on 9 June 1983.

On 27 May 1988, you received non-judicial punishment for wrongful use of a control substance. Consequently, you were notified of administrative separation processing for misconduct due to drug abuse with a least favorable characterization of service as General (Under Honorable Conditions) (GEN). You waived your rights in relation to the separation process and indicated

you did not object to the separation. On 22 June 1988, however, you were renotified of administrative separation processing and informed the least favorable characterization of service indicated was Under Other Than Honorable (OTH) conditions. You again waived your rights but for the right to obtain copies of documents used in the separation process. The separation authority directed your discharge and you were so discharged on 12 August 1988.

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 characterization of service, be restored to the rank of E5, have all benefits from your time of service restored, be awarded the Good Conduct medal, and received aid in obtaining a “Green C.” You contend that, at the time of your misconduct, you were under mental stress because of your mother’s funeral and your wife having a baby, all while the ships were under attack by sparrow missiles during Desert Shield, your tour on board the ██████████ was filled with racism and harassment, and you overheard your commanding officer vow to punish you beyond reproach. For purposes of equity and clemency consideration the Board considered the totality of your application; which consisted solely of your petition and two email messages to the Board.

Because you raised the issue of mental health, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. He has not submitted any medical evidence in support of his claim. 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 a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition.”

In response to the AO, you provided brief email messages denying the basis for your separation and arguing that the circumstances surrounding your service did not matter. 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 NJP in your third enlistment, 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. The Board noted that marijuana use in any form is still

against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also 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. Moreover, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

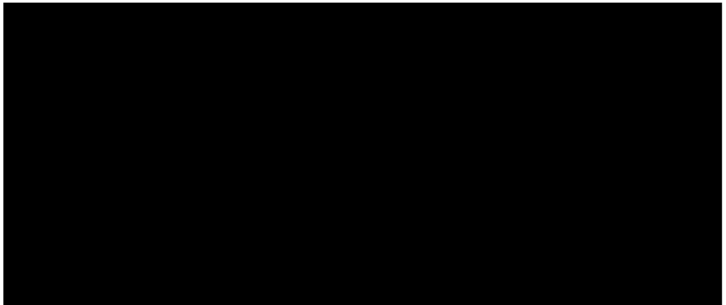
Additionally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to a mental health condition. As explained in the AO, you provided no medical evidence in support of your claim. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

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 discharge¹. Although the Board commends you for your two prior Honorable enlistments, 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,

5/27/2025



¹ Based on this finding, the Board found no basis to reinstate you to E-5 or restore any of your military benefits. Regarding your request for issuance of the Good Conduct medal, the Board determined your record does not meet the requirement based on your record of misconduct.