



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

██████████
Docket No. 11641-24
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 28 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 31 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 Navy on 15 September 1984. On 19 July 1995, you received non-judicial punishment (NJP) for drunk and disorderly conduct. On 3 October 1995, you commenced a period of UA that ended with you surrendering to military authorities on 4 October 1995. On 20 May 1996, you went into a UA status for 30 minutes. On 16 August 1996, you received NJP for two specifications of UA totaling nine days. Between November 1996 and , you commenced a period UA that lasted 4 hours and 30 minutes. On 4 November 1996 and 16 January 1998, you had eight additional periods of UA of varying lengths.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214) reveals that you were separated from the Navy, on 20 July 1998 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is "Pattern of Misconduct," your separation code is "HKA," and your reenlistment code is "RE-4."

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 incurred mental health concerns during military service due to depression, were misled by your recruiter, and have been successful in your post-discharge life. You point out that you have been married for 20 years, have two sons, coach youth sports, and have been employed with the same company for 14 years. 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.

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:

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. He did not submit any medical evidence in support of his claim. His personal statement lacks sufficient detail to provide a nexus between a 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. Based on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service.

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 any mental health condition."

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 and extensive record of UAs, 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. As pointed out in the AO, there is no evidence you were diagnosed with a mental health condition while in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. 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. Finally, the Board also noted 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. While the Board carefully considered the evidence you provided in mitigation and commends your post-discharge good character and conduct, 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 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,

6/17/2025

