



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

██████████
Docket No. 11680-24
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 7 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). 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.

You enlisted in the U.S. Navy and began a period of active duty on 9 May 1983. On 20 October 1983, you received non-judicial punishment (NJP), for two specifications of disobeying a lawful order and disrespectful in deportment towards a second class petty officer. On 17 March 1984 you began a period of UA that ended on 31 May 1984. You received your second NJP, on 6 June 1984, for the 75 days of unauthorized absence (UA). Consequently, you were processed for administrative separation due to misconduct due to a commission of a serious offense. You waived your procedural rights and were recommended for discharged with an Other Than

Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were so discharged on 20 June 1984.

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 an officer threw a knife at you, you were really scared and reported the incident to the CO the next evening, the officer came while you were sleeping and grabbed you and proceeded to choke you, three men tried to assault you and you were able to run and get away, and you left the ship because nothing was being done. For purposes of clemency and equity consideration, the Board considered the totality 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 28 March 2025. The Ph.D. stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with mental health condition during military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Temporally remote to his military service, the VA has granted a diagnosis of PTSD that is attributed to military service. Unfortunately, there are inconsistencies with his service record and his current statement that raise doubt regarding the reliability of his recall over time. Available records are not sufficiently detailed to provide a nexus with his misconduct. 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 post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

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 NJPs, 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 an opportunity 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 concurred with the AO and determined there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition. As explained in the AO, there are inconsistencies with your service record and your current statement that raise doubt regarding the reliability of your recall over time. 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 discharge. While the Board considered the evidence you provided 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,

5/19/2025

