



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

Docket No. 12028-24
Ref: Signature Date

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 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 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, 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. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy and commenced active duty on 16 March 1988. On 2 August 1988, you commenced a period of unauthorized absence (UA) that ended with your apprehension by civil authorities on 12 February 1989. You were charged with aggravated assault on a police officer and returned to military control on 16 February 1989. On 21 April 1989, you were convicted at Special Court Martial (SPCM) of your UA and sentenced to reduction in rank to E-1, forfeitures, confinement, and a Bad Conduct Discharge (BCD). Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 13 December 1989.

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 change your discharge characterization of service and your contentions that you have suffered from undiagnosed Bipolar Disorder which impacted your decision-making ability since the age of sixteen and a discharge upgrade would allow you to pursue a better job. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your statement, and medical documents you provided.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 10 April 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health issues (Bipolar Disorder) during military service, which may have contributed to the circumstances of his separation from service.

Petitioner submitted one progress noted dated February 2024 noting presentation for "Bipolar, insomnia (C/o [complains of] unable to sleep, right toe discoloration, lab review, mood swings)." The note also indicates that Petitioner was diagnosed with Bipolar Disorder in 1995.

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 submitted one temporally remote post-service record noting a diagnosis of Bipolar Disorder. The Petitioner claimed that he suffered from Bipolar Disorder since the age of 16; however, the evidence submitted notes that he was diagnosed in 1995, which would have been at the age of 27. Unfortunately, neither the evidence submitted, nor his personal statement are sufficiently detailed to establish clinical symptoms or provide a nexus with his requested change for narrative reason for separation.

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."

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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the negative impact your extended UA had on the good order and discipline of your command. The Board also considered the likely discrediting effect your arrest for assaulting a police officer had on the Navy. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that existed in service and insufficient evidence to attribute your misconduct to a mental health condition. As explained in the AO, your medical evidence is temporally remote to your service

and contradicts your contentions regarding the timeline for your Bi-Polar disorder. 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, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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 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

