



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

██████████
Docket No. 12243-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 19 May 2025, has carefully examined your current request. 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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 8 April 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You previously applied to this Board for an upgrade to your characterization of service. You were denied relief on 23 April 2014, 21 September 2016, and 30 August 2024. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

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: (a) you were suffering from PTSD and other issues attributed to your deployment in support of Operation Desert Shield / Desert Storm, (b) you were a deckman and choose to become a cook to enhance your changes to find employment upon the completion of your military service, (c) you went UA and no one knew where you were, including your family, friends, or the military, (d) you went UA as a result of a car wreck in which you hurt your back and neck, (e) the stress of war had really destroyed you and you never received help from the military and instead you received disciplinary action, and (f) you were not in the right frame of mind and signed paperwork to leave. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted of your DD Form 149, one character letter of support, your personal statement, and your medical records.

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

There is no evidence that he was diagnosed with a mental health condition in military service. Post-service, he has received treatment for substance use disorder, PTSD, and other mental health concerns. The Petitioner and his providers have noted that his mental health concerns may be attributed to military service. The Petitioner has also received a diagnosis of a personality disorder from VA providers. It is possible that mental health concerns for which he sought treatment after service may have been present during military service. Unfortunately, available records are excerpted and incomplete and it is difficult 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 AO concluded, "There is some post-service evidence of mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a 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 four non-judicial punishments, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of 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. Finally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. As explained in the AO, the medical evidence you provided is excerpted and is insufficient to provide a nexus with your misconduct. 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.

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

