



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

█  
Docket No. 15-25  
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 6 June 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty service on 12 March 1991. Your pre-enlistment physical examination, on 16 January 1991, and self-reported medical history

both noted no psychiatric or neurologic conditions, history, or symptoms. As part of your enlistment application, you disclosed a pre-service public intoxication arrest and conviction.

On 8 August 1991, while still in "A" School, you received non-judicial punishment (NJP) for an unauthorized absence (UA). You did not appeal your NJP. On 9 August 1991, your command issued you a "Page 13" retention warning (Page 13) documenting your poor military performance to include: (a) failing to go at the time prescribed to your appointed place of duty, (b) dereliction of duty, and (c) failing to obey a lawful order. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and/or processing for administrative separation. Following completion of your initial training pipeline, you reported for duty on board the █ in █.

A Drug and Alcohol Abuse Report (DAAR), dated 19 September 1991, indicated that your command referred you to the DAPA Counselor after you reported to the emergency room for alcohol intoxication with a BAC of .30. A Navy Medical Officer (MO) determined you were psychologically dependent on alcohol. The DAAR noted you were scheduled to attend Level III inpatient alcohol rehabilitation treatment beginning in late September 1991.

Between 30 September 1991 and 6 November 1991, you attended Level III alcohol rehabilitation treatment at Naval Hospital, █. Your discharge diagnosis was alcohol dependence, and you were prescribed an "Aftercare" regimen to last up to one (1) full year.

However, on 19 March 1992, you received NJP for being drunk in public on 22 February 1992. You did not appeal your NJP. The same day, your command issued you a Page 13 documenting your NJP. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and/or processing for administrative separation.

On 21 September 1992, a MO evaluation indicated you were psychologically dependent on alcohol and recommended that you attend Level III treatment again. However, on 21 September 1992, you expressly declined to attend such treatment a second time.

On 23 September 1992 you received NJP for: (a) disrespect to a superior commissioned officer, (b) insubordinate conduct, (c) assaulting a fellow Sailor, (d) drunk and disorderly conduct, and (e) wrongfully communicating a threat (2 separate specifications). You did not appeal your NJP.

Consequently, your command notified you of administrative separation proceedings by reason of misconduct due to a pattern of misconduct and commission of serious offense. You waived your rights to consult with counsel, submit statements, and to request a hearing before an administrative separation board. You did not object to your separation.

On 10 November 1992, your commanding officer (CO) recommended to the Separation Authority (SA) that you receive an under other than honorable conditions (OTH) characterization of service. In his recommendation the CO stated, in part:

Further counseling, leadership, or disciplinary actions taken in this man's case with a view to retaining him on active duty would be fruitless. [Petitioner] has

committed misconduct due to commission of a serious offense and pattern of misconduct. He exhibits no potential for further naval service as evidenced by the seriousness of the offenses he has committed during his current enlistment and his refusal of treatment for alcohol dependency. I recommend discharge under Other Than Honorable conditions.

On 16 November 1992, the SA approved your discharge with an OTH character of service. Ultimately, on 21 November 1992, you were separated from the Navy by reason of misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

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) at the time of your dismissal, you were 23 years old and struggling with alcoholism, which you acknowledge greatly impacted your behavior and decision-making, (b) you take full responsibility for your actions that led to your discharge, but you were not fully aware of the consequences and did not have the right mindset to seek the help you needed, (c) post-service you have faced numerous challenges, including incarceration with the Texas Department of Criminal Justice, however, despite these difficulties, you have made significant efforts to address your alcoholism, (d) if granted Department of Veterans Affairs benefits, you could access essential mental health services and further treatment for your alcoholism, (e) you are deeply committed to your rehabilitation and believe that access to such resources would significantly aid your journey towards recovery and reintegration into society, and (f) you sincerely apologize for your past actions and seek an opportunity for atonement and a fresh start. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 214 that you included with your DD Form 149 without any other additional documentation.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 14 April 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an extended psychiatric hospitalization. His personality and alcohol use disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. He has received diagnosis and treatment of other mental health concerns that are temporally remote to his military service and appear unrelated. Unfortunately, it is difficult to attribute his misconduct to a mental health condition other than alcohol use disorder, given his pre-service problematic alcohol behavior that appears to have continued in service.

The Ph.D. concluded, "There is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than alcohol use disorder."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any purported mental health conditions and/or related symptoms and your misconduct and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 cumulative pattern of misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful, and demonstrated you were unfit for further service. The Board also 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.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 2.6 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 3.0 in conduct (proper military behavior), for a fully Honorable characterization of service. The Board concluded that your cumulative misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your serious misconduct and a failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. Moreover, 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 in discipline clearly merited your discharge. 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,

6/17/2025

