



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

██████████
Docket No. 0059-25
Ref: Signature Date

████████████████████
██
██████████
████████████████████

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.

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 30 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 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.

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 on the evidence of record.

During your enlistment processing you disclosed minor traffic infractions. You enlisted in the Navy and began a period of active duty on 13 May 1983. On 18 May 1983, you were briefed on the Navy's drug and alcohol abuse policy. On 16 June 1984, you received your first nonjudicial

punishment (NJP) for disrespect and assault towards a superior petty officer. You were subsequently formally counseled regarding this infraction and advised that, although you were being retained in the Navy, any further deficiencies in your performance and conduct could result in disciplinary action and possible administrative separation.

From 16 September 1985 through 20 May 1986, you received five additional NJPs for the following offense: five specifications of unauthorized absence (UA), two specifications of missing ship's movement, two specifications of breaking restriction, and wrongful use of marijuana. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of drug abuse and pattern of misconduct (POM); at which time you waived your right to consult with counsel and to present your case to an administrative discharge board. You were subsequently evaluated and found not to be drug dependent. Your commanding officer recommended that you be separated with an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were discharged on 25 June 1986.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) you incurred mental health issues during service, (2) you were assaulted by your petty officer and the subsequent harassment is documented in your service record, (3) following the assault, your alcohol use escalated, and you experienced significantly difficulty working with your petty officer, (4) although the record reflects you retaliated, this is inaccurate, (5) if you had, in fact, retaliated, you would have likely been referred to Captain's Mast; which did not occur, (6) you were recruited into a rating that required typing proficiency, despite having an amputated left middle finger, which impaired your ability to perform effectively as a Radioman, (7) you requested drug and alcohol treatment on multiple occasions but were denied access to such services, (8) since your discharge, you have maintained sobriety, are currently receiving social security disability insurance (SSDI), and you recently underwent open-heart surgery, and (9) you maintain that, had the incident occurred, you likely would have made the Navy a career. 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.

Based on your assertions that you suffered from mental health issues, which may have contributed to the circumstances leading to your unfavorable discharge, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 11 May 2025. The AO stated in pertinent part:

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 extensive mental health records from ██████████ where he was seen for anxiety, depression, and Alcohol Use Disorder. Some records note that he was diagnosed with Bipolar Disorder. One entry in September 2021 indicates that the Petitioner said he "saw trauma in the military," but there was no follow-on treatment or assessment thereof. His personal statement is not sufficiently detailed to provide a nexus between any mental health

condition and his in-service misconduct. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their link to his separation) would aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is evidence of mental health conditions that are temporally remote to service. There is insufficient evidence that to attribute his misconduct to a mental health condition."

After a 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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it involved a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board 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 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 that there is insufficient evidence that a mental health condition existed in service and to attribute your misconduct to a mental health condition. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition during your military service or that you exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. Thus, 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 determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate; a standard the Board found was not met in your case. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

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 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 is attached 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,

7/14/2025

