



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

██████████  
Docket No. 380-25  
Ref: Signature Date

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██  
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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 10 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.

You enlisted in the U.S. Navy and began a period of active duty on 26 December 1990. Upon entry onto active duty, you were granted a waiver for illegal use of a controlled substance while in the Delayed Entry Program. You were also issued a counseling warning for your failure to disclose your preservice civil involvement, failure to yield right of way, and advised further deficiencies in your performance or conduct may result in processing for administrative separation.

On 6 May 1992, you were disenrolled from the Naval Nuclear Power Training program for medical reasons. You reported to ██████████ (██████████) on 7 July 1992. On 3 August 1993, you received non-judicial punishment (NJP) for wrongful use of marijuana. Subsequently, you were notified for separation for misconduct drug abuse and elected your right to consult with counsel but waived your right to have your case heard by an administrative discharge board (ADB). On 13 August 1993 and 19 August 1993, you refused to be screened or to participate in a treatment program prior to being discharged. Your Commanding Officer recommended to the Separation Authority (SA) that you be discharged with an Other Than Honorable characterization of service. The SA accepted the recommendation, and you were so discharged on 19 August 1993.

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 contention that the nature of your offense is no longer as critical. 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.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 24 April 2025. The Ph.D. stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His Alcohol Use Disorder diagnosis was 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. There is no evidence of another mental health condition in service. Temporally remote to his military service, he has received a diagnosis of PTSD that a civilian provider has attributed partially to military service. However, there are inconsistencies in the record that raise doubt regarding the Petitioner's candor or the reliability of his recall over time. His in-service misconduct appears to be consistent with his Alcohol Use Disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service.

The Ph.D. concluded, "There is some post-service evidence from a civilian provider of a diagnosis of PTSD that may be attributed to military service in part. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition, other than Alcohol Use Disorder."

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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 also 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. 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, other than Alcohol Use Disorder. As explained in the AO, there are inconsistencies in the record that raise doubt regarding your candor or 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. The Board also considered that you were allowed to enter the Navy with a waiver for preservice drug abuse but you chose to continue your misconduct.

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,

6/27/2025

