



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

█  
Docket No. 384-25  
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 limitations 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 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)/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 an advisory opinion (AO) from a qualified mental health professional; dated 24 April 2025. Although you were provided an opportunity to comment on the AO, you chose not to do so.

You enlisted in the Navy and commenced a period of active duty on 29 May 1986. On 9 October 1986, you received non-judicial punishment (NJP) for being in an unauthorized absence (UA) status for nine hours and 25 minutes. On 5 August 1987, you received NJP for being in a UA status for six days. On 10 June 1988, a special court-martial (SPCM) convicted you of two specifications of UA totaling 37 days and wrongful use of cocaine. Consequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and drug abuse. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to a pattern of misconduct and drug abuse, and recommended you be discharged with an Other

Than Honorable (OTH) discharge. In the meantime, you commenced on a period of UA that lasted 113 days and prevented you from receiving a drug dependency evaluation. The commanding officer (CO) concurred with the ADB and recommended you be discharged with an OTH discharge. On 1 February 1989, another SPCM convicted you of UA totaling 113 days. As a result, you were sentenced to confinement for 60 days, reduction to E-1, and a Bad Conduct Discharge (BCD). After completion of all levels of review, you were so discharged on 29 August 1990.

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 upgrade your discharge and contentions that you incurred a mental health condition (PTSD) due to racial discrimination/harassment, need Department of Veterans Affairs (VA) assistance to help with your PTSD, and are currently suffering from the events that resulted in you receiving a BCD. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of the personal statement you included with your DD Form 149 without any other additional documentation.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The mental health professional stated in pertinent part:

There is no evidence that Petitioner was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has received treatment for PTSD and other mental health conditions that are temporally remote to his military service and appear unrelated. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or 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 insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

After 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 and SPCMs, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact 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 observed you were given several opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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 your misconduct may be attributed to PTSD or another mental health condition. As explained in the AO, there is no evidence you were diagnosed with a mental health condition in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. The AO also noted the treatment for PTSD and other mental health conditions you received are temporally remote to your military service and appear unrelated. 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.

Additionally, 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. Finally, the Board also noted you provided no evidence, other than your statement, to substantiate your contentions.

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. 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,

7/1/2025

