



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

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Docket No. 536-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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, considered your application on 18 July 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, and 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) (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) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

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

You have previously applied to the Board on three occasions; the summary of your naval service and circumstances of your punitive discharge remain substantially unchanged from that addressed in the Board's previous reviews of your record.

You first applied to the Board seeking a review on the basis of clemency and post-service conduct. Your request was considered on 19 July 2016 and denied primarily due to the seriousness of the misconduct which resulted in your General Court Martial (GCM) conviction and punitive discharge. Additionally, the Board was not persuaded at that time that you had changed your life to become a productive and honorable citizen.

You then reapplied for further clemency review with additional evidence of your post-service character and conduct, with additional contentions of suffering from post-traumatic stress disorder (PTSD) due to your military service. In support of your mental health contentions, you submitted a letter from the Department of Veterans Affairs (VA) reflecting that you were ineligible for medical care. The Board also considered a previous AO regarding your mental health conditions. Your request was reconsidered on 19 March 2018 and again denied.

In your most recent request for reconsideration, you contended that you suffered from behavioral health issues during your military service which contributed to your alcohol abuse and which were exacerbated when you did not receive rehabilitation for your alcohol abuse issues. You also submitted additional clemency evidence. Your request was reconsidered a second time on 30 June 2020 and was again denied. The Board concluded that, even taking into account your struggles with alcohol and your documented in-service medical issues to include anxiety, the frequency and seriousness of your misconduct could not be overcome by the information provided in your application. Additionally, although you claimed that you should have been processed for discharge due to a qualifying disability, the Board noted that processing for discharge on the basis of misconduct takes precedence over processing for a qualifying disability.

Now, granting reconsideration for a third time, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and to change your narrative reason for separation to Secretarial Authority and change your reentry code to RE-1. You continue to contend that your behavioral health issues, to include symptoms consistent with PTSD, warrant liberal consideration and render your discharge erroneous under the applicable of both equity and material fact. You attribute your misconduct to your mental health condition; which you believe caused behavioral challenges and resulted in maladaptive coping with alcohol and substance abuse. You further argue that the length and quality of your overall service was commendable and warrants consideration of an upgraded characterization, and that your punitive discharge is disproportionate to the both your honorable service and your post-discharge accomplishments. In support of your contentions, in addition to your counsel's brief, you submitted health records, service records, and a VA letter regarding a character of discharge decision. 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.

Because you primarily contend that post-traumatic stress disorder (PTSD) or another mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for and properly evaluated and treated for mental health concerns, including during multiple hospitalizations. 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 evaluations performed by the mental health clinicians. There is no evidence that he was diagnosed with another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of another diagnosable mental health condition. He has provided no medical evidence to support his claims.

There are some inconsistencies in his record that raise doubt regarding the Petitioner's candor or the reliability of his recall over time. There is no evidence of combat exposure during his military service, and it is unclear what is the purported traumatic precipitant. There is no evidence of a diagnosis of PTSD or another mental health condition incurred in or exacerbated by military service, other than alcohol use disorder.

Unfortunately, it is difficult to attribute his misconduct to a mental health condition other than alcohol use disorder, particularly given the extended lapse in time from military service to a period in which mental health symptoms other than alcohol use disorder became sufficiently interfering as to require intervention.

The AO concluded, "There is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. 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 four non-judicial punishments and general court martial (GCM) conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug offenses. 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 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 Bad Conduct 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. In addition to repeated unauthorized absences, being drunk on duty, and being disrespectful toward superiors, your GCM conviction for wrongful introduction of heroin onto a military vessel was a very serious offense which constituted a significant departure from the conduct expected of a Sailor.

Additionally, the Board fully concurred with the AO that there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition, other than alcohol use disorder. The Board agreed with the AO that you exhibited any psychological symptoms or behavioral changes indicative of another diagnosable mental health condition. In addition, given the lapse in time prior to your latent diagnosis with lack of evidence treatment in the intervening 30-plus years, the Board found insufficient evidence that a nexus exists between your misconduct and a mental health condition.

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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

8/6/2025

