



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

██████████
Docket No. 578-25
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.

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 25 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.

You enlisted in the Navy and began a period of active duty from 9 August 1984 through 3 September 1987, when you were discharged under Other Than Honorable (OTH) conditions for misconduct due to commission of a serious offense. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

You initially applied to the Naval Discharge Review Board (NDRB) contending that your commanding officer had a clear plan to work with the civilian judge to discharge your civil

conviction provided you continued to satisfactorily serve in the Navy and that it was unfair for Commander, Naval Military Personnel command, to direct your administrative discharge over the objection of your commanding officer. Reviewing your discharge, the NDRB found that the primary narrative reason for separation as misconduct due to conviction for a civilian conviction was improper because your conviction was the result of an offense which occurred prior to your enlistment. Applicable regulations specified that separation for a civilian conviction must be due to offenses occurring during the current term of military service. However, the NDRB noted that you committed extensive in-service misconduct. At the time you were processed for administrative separation, you were notified of the additional bases of misconduct due to commission of a serious offense and pattern of misconduct. The NDRB voted unanimously to change your narrative reason for separation to the proper reason of commission of a serious offense, and this change was subsequently documented in your corrected discharge record.

You then applied to this Board, which considered your initial request on 8 December 2009 and denied relief. At that time, you contended that your youth and immaturity, overall record of service, and post-service medical issues stemming from an in-service injury collectively warranted consideration of an upgrade on the basis of clemency.

You subsequently applied for reconsideration to this Board contending that your commanding officer had been supportive of your situation with your civil conviction but that racial conflict with other members of the command, to include your Ensign, caused friction with your conduct and other's perception of you. You also contended that you experienced stress due to complications stemming from your pending civilian charges and that a mental health condition had contributed to your misconduct. Finally, you submitted evidence of post-service conduct for consideration of clemency. The Board considered your reconsideration application on 1 August 2022 and again denied relief. The Board noted that you had failed to properly disclose your pending court action at the time of your enlistment and concluded that your in-service conduct also constituted a significant departure from that expected of a Sailor. Based on those factors, the Board found that your record continued to warrant an OTH characterization even after applying liberal consideration to your contended mental health concerns.

The Board again 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, to change your narrative reason for separation to Secretarial Authority, and to change your separation code and reenlistment code accordingly. You contend that your discharge is unjust because you developed mental health issues due to your experience of racism during your military service and also due in part to the stress of having to frequently return to ██████████ for the criminal case proceedings from your pre-service offense. You attribute your increased periods of unauthorized absence (UA) and other misconduct to your declining mental health. You also feel that your mental health issues were not taken seriously at the time of your service and submitted additional evidence of clemency factors for consideration. In support of your contentions, you submitted a mental health letter from your provider, medical progress notes, an article on post-traumatic stress disorder (PTSD), and article on the experience of trauma due to racial discrimination, previous Board decisions, and the applicable policy memoranda. 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 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 submitted the following items in support of his claim:

- Letter and progress notes from social worker indicating diagnosis of PTSD and treatment thereof since September 2023
- Prior (2022) BCNR decision letter
- Kurta, Wilkie, Hagel Memorandums
- Articles entitled, “Post Traumatic Stress Disorder and Racial Trauma,” and “Racial Trauma.”

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 evidence of post-service counseling for PTSD; however, the petitioner’s description of events that caused PTSD do not meet criteria “a” as per DSM-V-TR regulations. Furthermore, the nature and pervasiveness of his misconduct are not typical of behaviors caused by PTSD. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. The fact that he did not disclose a pre-service arrest may indicate lack of candor. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific 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 insufficient evidence to attribute his misconduct to a mental health condition.”

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 three non-judicial punishments and special court-martial (SPCM), outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and 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. The Board also concluded that you already received a large measure of clemency when your punitive discharge from your SPCM was not executed. While the Board noted and concurred with the NDRB’s determination that your original primary basis for discharge of civilian conviction was improper, it found your record of misconduct clearly establishes that both of those additional bases were supported by a preponderance of the evidence. Furthermore, the Board concluded that the entire situation pertaining to your civilian conviction, as well as the stress which you attributed to the same, resulted from your initial procurement of a fraudulent enlistment through failure to disclose your pending criminal proceedings.

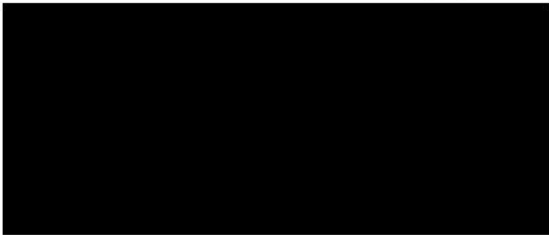
Additionally, the Board concurred with the AO there is insufficient evidence to attribute your misconduct to a mental health condition. The Board agreed there is a lack of evidence of a nexus between your numerous periods of UA, disrespect of superiors, failure to obey lawful orders, and communication of threats and a mental health condition. 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.

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 discharge¹. 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 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,

8/14/2025



¹ As modified by the NDRB. In addition, in making this finding, the Board determined your reentry code remains appropriate based on your unsuitability for further military service.