



**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. 10729-25  
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.

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 19 May 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional on 7 April 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 19 July 1997. On 20 June 1997, you were counseled concerning fraudulent induction as evidence of failure to disclose required

basic enlistment eligibility information. Consequently, you were advised that failure to take corrective action could result in administrative separation. Between 4 March 1998 and 16 December 1998, you received nonjudicial punishment (NJP) on three occasions for three instances of underage possession and drinking, disobeying a lawful order, and drunkenness.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to fraudulent entry, pattern of misconduct, and commission of a serious offense. After you decided to waive your procedural rights, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation and ordered your discharge by reason of misconduct due to pattern of misconduct. On 5 March 1999, you were so discharged.

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 contentions that: (a) you were a victim of abuse and intimidation by your stepfather, (b) you did not disclosed the abuse with your mother until you were separated from service, (c) you were extremely disappointed since you were promised a career that you tested for and were given another, (d) you were depressed and angry, which led you to find the wrong crowd of shipmates to be friends with, (e) you went to a casino and upon returning to the ship, you were jumped and robbed, (f) upon gaining consciousness, you wrongfully attacked your senior chief who decided to bring you up on charges for drunk and disorderly conduct, (g) you got in trouble when your friends told you to bring alcohol on board a vessel, (h) post discharge, you began using alcohol and abusing medications, and eventually were charged with a second DUI, (i) you could not find a descent job due to your discharge characterization, (j) you were married, had a son, got divorced and still abusing alcohol and medications, and (k) you have been diagnosed with depression, anxiety, and PTSD. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, copies of your medical records, and a decision letter from the Social Security Administration (SSA).

As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that he 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, other than a possible alcohol use disorder. He has provided evidence of mental health diagnoses 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, particularly given pre-service problematic alcohol use that appears to have continued in service. 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 to

attribute his misconduct to PTSD or another mental health condition, other than a possible 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 NJPs, 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. Further, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD or another mental health condition. As explained in the AO, you have provided evidence of mental health diagnoses that are temporary remote to your military service and appears 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.

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 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 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,

6/4/2025

