



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. 678-25

Ref: Signature Date

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 15 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 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 (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. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 29 March 1993. On 22 July 1993, you reported to [REDACTED] for duty. On 30 November 1994, you were issued an administrative remarks (Page 13) retention warning counseling concerning deficiencies in your performance and conduct as evident by your alcohol related incident. On 9 October 1996, you

completed Level III Treatment at the Naval Alcohol Rehabilitation Center. On 19 December 1996, the Navy Drug Laboratory San Diego, CA reported that your urine sample tested positive for amphetamine/methamphetamine. On 4 February 1997, you received non-judicial punishment (NJP) for going from your appointed place of duty and wrongful use of amphetamine/methamphetamine.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of alcohol rehabilitation failure and misconduct due to drug abuse. You were informed of the basis for this recommendation and that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You elected your right to consult with counsel and to present your case to an administrative discharge board (ADB). On 20 February 1997, the ADB was convened and found that by the preponderance of the evidence supported you committed misconduct and recommended your administrative discharge from the Navy with an OTH characterization of service. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner's] behavior was contrary to good order and discipline and indicative of his disregard for rules and regulations. Based on the available facts in this case I strongly supported the administrative board's recommendation that he be separated from the naval service with an Other Than Honorable discharge.

The separation authority approved the recommendation for administrative discharge and directed your OTH discharge from the Navy by reason of misconduct due to drug abuse. You were so discharged on 27 March 1997.

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 character of service and your contentions that: (1) you served all four years of your obligated service, (2) you received a threat to be written up for something you did not do, (3) you have medical and mental health concerns that you need to have addressed, and (4) you made a mistake, were young, and alcoholism was your disease. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 26 May 2025. The AO stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition or that he exhibited any symptoms of a mental health condition while in military service. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between any mental health condition and rationale for separation. 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 any mental health condition.”

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evident by your alcohol rehabilitation failure and NJP, outweighed these 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 also considered the negative effect your misconduct had on the good order and discipline of your command. Further, the Board found that your misconduct was intentional and made you unsuitable for continued naval service.

Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that existed in service and there is insufficient evidence to attribute your misconduct to any mental health condition. As the AO explained, your personal statement is not sufficiently detailed to provide a nexus between any mental health condition and rationale for separation. The Board agreed there is no evidence that you suffered from a mental health condition or that you exhibited any symptoms of a mental health condition while in military service. 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 otherwise not be held accountable for your actions, and you were properly discharged based on your misconduct. 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. Finally, 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.

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,

7/23/2025

