



Docket No. 774-25
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.

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 22 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 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) 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 previously applied to this Board for an upgrade to your characterization of service and were denied relief on 11 March 2019. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 to “Honorable or Medical.” You contend that: (1) you have been suffering from mental illness and were never diagnosed, (2) the events that led to your discharge were due to your undiagnosed mental illness, (3) you have received treatment and medication for your mental illness, (4) your mental illness has affected you over the years in different ways, to include: substance abuse, bipolar, mood-swings, self-control, judgement, anger, depression, seclusion and disconnect, and (5) you served your country with honor and had all intentions of making the Navy a career. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, personal statement, advocacy letter, health care documents, and service record documents.

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 1 June 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. There is post-service evidence of diagnoses of Bipolar Disorder, Anxiety Disorder Unspecified, Depressive Disorder Unspecified, and Cannabis Use Disorder that are temporally remote to active duty. Furthermore, none of his post-service evidence notes a nexus between his more recent mental health conditions and in-service misconduct. 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 your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your non-judicial punishment for a period of unauthorized absence totaling 22 days, missing ship’s movement through design, and wrongful use of marijuana, 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. Further, the Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also considered the negative effect your misconduct had on the good order and discipline of your command. Furthermore, 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 a mental health condition. As the AO explained, none of your post-service medical evidence notes a nexus between your more recent mental health conditions and your in-service misconduct. The Board agreed there is no evidence that you suffered from a mental health condition or that 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. 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

In addition, based on your administrative separation processing for misconduct that resulted in an OTH characterization, the Board determined that you were ineligible for a "medical discharge;" even if there was evidence to support your referral to the Disability Evaluation System.

Finally, and 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. 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.

Sincerely,

7/31/2025

