

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

Docket No. 841-25
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 24 June 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 considered the previous advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

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 December 2008, 26 May 2000, and 18 December 2024. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

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 be considered for any benefits and support services available to veterans with PTSD, and acknowledgment of the traumatic incidents that you experienced and their impact on your mental health that were not considered at the time of your discharge. The Board considered your contentions that: (1) your record does not accurately reflect the severe trauma you endured and its profound impact on your mental health and behavior, (2) due to traumatic events that you experienced in service, you suffer from symptoms of PTSD which were not properly evaluated or diagnosed prior to your discharge, (3) your Other Than Honorable (OTH) discharge was issued without a proper mental health evaluation, (4) traumatic events that you experienced while onboard the ■ likely caused undiagnosed PTSD impacting your mental state and decision making, (5) prior to the traumatic events, your service record was exemplary, (6) an upgrade of your discharge character of service will correct an oversight, acknowledge your service-related trauma, and grant you access to necessary veteran's benefits and support, and (7) your OTH discharge has led to a complete denial of crucial veterans' benefits, including healthcare, education, and other support services vital to your well-being. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and statement 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 31 October 2024. As previously noted, the AO stated in pertinent part:

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 has provided no medical evidence in support of his claims. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her 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 may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In your recent response to the AO, you provided a personal statement that was not previously considered by the Board. The new evidence provided was not materially different from what was previously considered, and after reviewing your rebuttal evidence, the AO remained unchanged.

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 non-judicial punishment and special court-martial conviction outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided an opportunity to correct your conduct deficiencies

during your service but you continued to commit additional 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 again concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to military service and there is insufficient evidence to attribute your misconduct to a mental health condition. As the AO explained, there is no evidence that you were diagnosed with a mental health condition during your military service or that you exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. Additionally, you have provided no medical evidence in support of your claims. 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. Furthermore, the Board observed that you did not provide any evidence, other than your statement, to substantiate your contentions. 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.

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,

7/10/2025

