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

[redacted]
Docket No. 885-25
Ref: Signature Date

[redacted]

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 to 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 and your response to the AO.

You previously applied to the Board contending that your misconduct was attributable to your medical condition of narcolepsy. Your request was considered on 18 July 2007 and denied. In making their decision, the Board found insufficient evidence that you suffered from narcolepsy during your military service or that your misconduct was caused by an undiagnosed medical condition. 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 Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and change your reason for separation. You contend that you suffered numerous disciplinary events related to your undiagnosed narcolepsy after you began falling asleep during class and missing classes prior to being expelled from your academic program. You argue that your pattern of sleep-based misconduct is proof of the nexus between your condition and your in-service disciplinary history, and that your condition was beyond your physical control. You also experienced anxiety, hopelessness, and frustration from your condition and your resulting inability to perform to standards, and you believe that your mental state contributed to your poor decision making. 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 a mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

> Petitioner contended he suffered from undiagnosed narcolepsy during military service, which contributed to frustration and misconduct. He submitted evidence of a September 1988 diagnosis of narcolepsy, which is a sleep disorder characterized by a daytime recurrent and irrepressible need to sleep. He presented additional evidence of narcolepsy from a December 2011 study. He provided evidence of character and post-service accomplishment.
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> 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. Temporally remote to his military service, he received a diagnosis of sleep disorder. While it is possible that he may have experienced the sleep disorder during military service, it is difficult to attribute the majority of his misconduct, including chronic and repeated UA, missing multiple movements, disobedience, breaking restriction, escaping confinement, and especially larceny of an automobile to an undiagnosed sleep disorder.

The AO concluded, "There is post-service evidence of a sleep disorder that may have been present during military service. There is insufficient evidence to attribute the majority of his misconduct to a sleep disorder."

In response to the AO, you provided additional arguments in support of your application. After reviewing your rebuttal evidence, the AO remained unchanged.

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 six non-judicial punishments, two summary courts-martial, special court-martial, and general court-martial, 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.

Additionally, the Board concurred with the AO that there is insufficient evidence to attribute a significant portion of your misconduct to a sleep disorder. The Board agreed that the nature of the majority your misconduct, which included extended periods of unauthorized absence, colluding with another prisoner to escape confinement, larceny a vehicle in furtherance of that effort, wrongfully wearing civilian clothing when not authorized, and disrespectful language toward a superior, made it unreasonable to attribute it to a sleep disorder. Further, the Board found no evidence you were diagnosed with 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 a sleep disorder or any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by these 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 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

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