



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

██████████
Docket No. 898-25
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 limitations 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 29 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 (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 an advisory opinion (AO) from a qualified mental health professional, dated 10 June 2025, and your response to the AO.

After a period of continuous Honorable service, you entered a second period of active duty with the Navy on 16 March 1982. On 20 February 1985, you received non-judicial punishment (NJP) for two specifications of absence from appointed place of duty. On 10 March 1985, civil authorities convicted you of driving under the influence (DUI). On 9 July 1985, a special court-martial (SPCM) convicted you of unauthorized absence (UA) totaling 31 days. On 4 October 1985, you tested positive for marijuana. On 12 October 1985, a Drug and Alcohol Report determined your overall potential for future service was poor. Consequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a

serious offense and drug abuse. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation for the primary basis of commission of a serious offenses and you were so discharged on 24 December 1985.

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 and contentions you incurred a mental health condition during military service due to marital stressors and child custody issues, you intentionally went into an unauthorized absence (UA) status and used marijuana to seek separation from the Navy, and 40 years have passed since your discharge. You further contend that you became a small business owner, served successfully for 95% of your enlistment, earned commendations and received good evaluations. 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..

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The AO stated in pertinent part:

Petitioner presented a February 2025 letter from a civilian mental health provider with a military background describing two years of mental health treatment. The letter stated, "Drugs and alcohol are typical coping devices some fall back on when unsure how to best deal with something...It's seems [sic] unfortunate that his whole service be defined by a poor moment of judgment, which from my perspective, was clearly influenced by a number of traumas...Anyone experiencing PTSD is clearly not going to always be thinking straight."

There is no evidence that he was diagnosed with a mental health condition in military service. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided evidence of treatment of mental health concerns that is temporally remote from his military service. A civilian mental health provider has expressed the opinion that his in-service misconduct may be related to mental health concerns experienced in service. However, there is some discrepancy from his description of his misconduct and the report from his mental health provider that raises doubt regarding the reliability of his recall with the passage of time. 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 some post-service evidence from the Petitioner and a civilian mental health provider of possible mental health concerns that may have been experienced during military service. There is insufficient evidence that his misconduct may be attributed to mental health concerns."

In response to the AO, you submitted a statement that provided additional information regarding the circumstances of your case. 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 your misconduct, as evidenced by your NJP, civil conviction, SPCM, and your admission of drug abuse, outweighed the potential 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 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. The Board also concurred with AO that there is insufficient evidence that your misconduct may be attributed to mental health concerns. As pointed out in the AO, there is no evidence that you were diagnosed with a mental health condition in military service. Throughout your disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Further, the Board noted your arguments in mitigation but it concluded your misconduct included other offenses that appear unrelated to your domestic issues with your spouse. 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 provided in mitigation and commends you for your post-discharge accomplishments, 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 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,

8/12/2025

