



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

██████████  
Docket No. 1069-25  
Ref: Signature Date

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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 1 August 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). Additionally, the Board also considered an advisory opinion (AO) furnished by a qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You previously applied three times to this Board for a discharge upgrade. On 2 January 2018, this Board denied your initial discharge upgrade petition. On 13 January 2020, this Board denied your request for reconsideration. On 25 October 2024, this Board denied your second request for reconsideration. As part of your current petition, you presented decision documents from the Department of Veterans Affairs (VA). Specifically, on 17 July 2024, the VA granted you a

service-connection for treatment purposes only for a psychotic disability. 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 for a discharge upgrade and your contentions that: (a) the evidence shows that PTSD/TBI and other disabilities occurring on active duty made it impossible for you to perform your duties, (b) your CO ignored your pleas for help and the need for an examination, and (c) twelve years later you were diagnosed with PTSD/TBI and other disabilities that had made it physically impossible to perform military duties. 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.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 10 June 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner submitted the following items in support of his claim:

- VA compensation and pension rating noting service connection for treatment purposes only for a "psychotic disability."
- Board of Veterans' Appeals documentation
- ██████████ Department of Criminal Justice Institutional Division Psychiatric Services notes (1997) indicating diagnosis of Bipolar I Disorder
- VA Disability and Benefits Questionnaire (DBQ) noting diagnoses of PTSD, Major Depressive Disorder, Stimulant Use Disorder, and TBI.
- Seven character reference letters
- Boxing articles
- Post service accomplishments
- Outpatient records from ██████████ Correctional Facility
- Offender Evaluation and Performance Report

There is no evidence that the Petitioner was diagnosed with a mental health condition or PTSD during his military service or that he suffered from any symptoms incurred by a mental health condition. He submitted post service documents from a variety of sources noting Bipolar Disorder, PTSD, Major Depressive Disorder and TBI that are temporally remote to service. His personal statement is not sufficiently detailed to provide a nexus between his claimed mental health condition and in-service misconduct.

The Ph.D. concluded, “it is my clinical opinion that there is sufficient evidence of post-service mental health conditions. There is insufficient evidence to attribute his misconduct to a mental health condition<sup>1</sup>.”

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any traumatic brain injury (TBI), mental health conditions and/or related symptoms and your misconduct, and determined that there was insufficient evidence to support the argument that any such TBI or mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to TBI or mental health-related conditions or symptoms. Even if the Board assumed that your misconduct was somehow attributable to any TBI or mental health conditions, the Board unequivocally concluded that the severity of your cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful, and demonstrated you were unfit for further service. The Board also 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.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record<sup>2</sup>. The Board determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The simple fact remains is that you left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse on no less than three (3) separate occasion for approximately fifty-nine (59) days. The Board found that your conduct showed a complete disregard for military authority and regulations. 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.

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 in discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, even

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<sup>1</sup> The Board noted that advisory opinions were similarly issued as part of your two most recent applications to this Board. Those opinions were authored by three different medical professionals, including a board certified psychiatrist and an expert from the Bureau of Medicine and Surgery, and reached the same conclusion as the current advisory opinion.

<sup>2</sup> Your record contains three non-judicial punishments for various Uniform Code of Military Justice offenses and a civilian conviction for reckless driving. This all occurred within an active duty period of approximately 18 months; during which you were UA for approximately 59 days.

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.

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,

8/7/2025

