



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

Docket No. 1095-25  
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 limitation 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 28 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, 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 the advisory opinion (AO) furnished by a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy and commenced active duty on 7 September 2005. On 9 March 2006, you received non-judicial punishment (NJP) for failure to obey an order or regulation and underage drinking. The same day, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. On 11 April 2006, you were evaluated by a medical officer and found to have no psychiatric diagnosis or condition other than nicotine dependence. On 8 March 2007, you were issued Page 13 counseling for noncompliance with the Page 13 counseling from 9 March 2006 by failing to obey orders and regulations and failure to conform to the behavior required of a member of the Navy. On

20 April 2007, you were found guilty at Summary Court Martial (SCM) of wrongful use, possession of a schedule II-controlled substance.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 5 June 2007, with an “Under Other Than Honorable Conditions (OTH)” characterization of service, narrative reason for separation of “Misconduct (Drug Abuse),” your reentry code of “RE-4,” and your separation code of “HKK;” which corresponds to misconduct - drug abuse (board waiver).

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 31 July 2018, based on their determination that your discharge was proper as issued.

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 change your discharge characterization of service and your contentions of addiction and mental health concerns and that you were discharged without reprimand or help of any kind. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

As part of the Board’s review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 10 June 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns during military service, which may have contributed to the circumstances of his separation from service.

In June 2007, he was discharged under other than honorable conditions. He endorsed nervous trouble, frequent trouble sleeping, and a history of mental health counseling during his separation physical. He stated that the counseling was “as a child, for parents – NCD [not considered disabling].” His nervous trouble was reported to occur in crowds and his trouble sleeping was “due to strenuous work schedule.” All concerns were NCD.

Petitioner was evaluated during his enlistment and received no mental health diagnosis, other than a tobacco use disorder. He has provided no medical evidence to support his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct.

The AO concluded, “There is insufficient evidence of a mental health diagnosis that may be attributed to military service. There is insufficient evidence to attribute his misconduct to mental health concerns.”

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 NJP, counselings, and SCM, 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. The Board also 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 and determined that there is insufficient evidence of a mental health diagnosis that may be attributed to military service and insufficient evidence to attribute your misconduct to mental health concerns. As explained in the AO, you provided no medical evidence and your personal statement is insufficient to provide a nexus between a mental health condition and your misconduct. 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. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

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.

Sincerely,

8/11/2025

