



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

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Docket No. 1108-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

Although you did not file your application in a timely manner, the Board waived the statute of limitation 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 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 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 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. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Navy and commenced active duty on 1 August 1980. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 31 July 1984. During your first enlistment, you were involved in multiple incidents of misconduct that included a drug offense. However, you participated in substance abuse rehabilitation and, although your recommendation for advancement to the paygrade of E-5 was withdrawn, you were permitted to reenlist. On 17 May 1985, you received the NJP for

violations of the Uniform Code of Military Justice (UCMJ) that included four specifications of UA in violation of Article 86 and Article 134 due to incapacitation for performance of duties due to intoxication. Your next three NJPs resulted from an additional seven occasions of UA spanning from October 1985 through June 1986.

On 17 August 1986, you began yet another period of UA and were ultimately placed into a psychiatric hospitalization following your surrender on 17 September 1986. A medical note during this period of observation documented that you had a drinking problem and did not want to stop; indicating that you had refused further treatment and were recommended for expeditious administrative separation. On 2 October 1986, you were convicted by Summary Court-Martial (SCM) for the Article 86 offense. In July 1988, you were again placed into psychiatric hospitalization for suicidal ideations and relationship stressors. You were diagnosed as having Adjustment Disorder (AD) with depressed mood but were not considered unfit to serve. On 18 August 1988, you were convicted by a second SCM for an additional period of UA and of larceny, in violation of Article 121 of the UCMJ, for an offense dating back to February 1988. On 28 October 1988, you commenced a period of UA which continued until 19 January 1989. You were subsequently tried and convicted by Special Court-Martial (SPCM) for your final prolonged period of UA and for a violation of Article 112a of the UCMJ due to wrongful use of cocaine. Your sentence included a Bad Conduct Discharge (BCD) for which you elected to voluntarily waive appellate review. Therefore, BCD was executed and you were so discharged on 19 May 1989.

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 your contentions that you experienced post-traumatic stress disorder (PTSD) and other mental health issues during your service. You allege that you received alcohol rehabilitation treatment at one duty location but were not allowed to continue your treatment after transferring to Naval Station Great Lakes. Rather, you claim that you were told you would only be granted treatment if you were recommended for reenlistment; which resulted in you not qualifying due to a previous rank reduction. For the purpose of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, medical documentation you submitted that included your counseling records, a letter from your counselor, your medical records, your disability rating decision from the Department of Veterans Affairs (VA), a detailed personal statement, and four character letters.

Because you contend that PTSD or another mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with PTSD during his military service or that he suffered from any symptoms incurred by PTSD. There is evidence of significant alcohol abuse and dependence, as well as possible marijuana and cocaine abuse. He was afforded and attended substance abuse treatment several times throughout his Navy service; unfortunately, he continued to use despite programming. He was psychiatrically hospitalized on two separate occasions for suicidal ideation. Both occurrences appear to be related to alcohol abuse and subsequent disciplinary action.

It is possible that he did experience depressive symptoms given continued and regular alcohol use and was diagnosed with Adjustment Disorder with Depressed Mood following his last hospitalization. An Adjustment Disorder indicates temporary negative mood/affect following situational stressors; the symptoms are expected to resolve once stressors are alleviated. Some of the Petitioner's misconduct cannot be said to have been caused by substance use alone. Purposely missing movement, larceny, and repetitive lengthy periods of UA cannot be said to have been solely caused by substance use. He submitted post-service evidence of diagnoses of PTSD, Alcohol Dependence and Anxiety.

The AO concluded, "it is my clinical opinion that there is sufficient evidence of post-service mental health conditions, and in-service Alcohol Dependence. There is insufficient evidence to attribute all of his misconduct to a mental health condition."

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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. 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. The Board determined a punitive discharge is generally warranted for serious misconduct such as repeated in-service use of narcotics and multiple periods of prolonged UA.

Additionally, the Board concurred with the AO that there is insufficient evidence to attribute all of your misconduct to a mental health condition. The Board noted that, contrary to your contentions now, that you clearly indicated you were not interested in further substance abuse treatment and requested to be separated. Additionally, as explained in the AO, larceny and repetitive periods of prolonged UA are not typically caused solely by substance use. 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 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,

9/18/2025

