



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

██████████
Docket No. 1178-25
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 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 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, applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgraded 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

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

During your enlistment processing, you disclosed a history of pre-service misconduct that included speeding, inoperative headlight, improper lane change, two instances of running a red light, running a stop sign, and two instances of retail fraud. You enlisted in the Navy Reserve and began a period of active duty on 19 January 1994. On 24 June 1994, you received

nonjudicial punishment (NJP) for the wrongful use and possession of marijuana. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of drug abuse; at which time you waived your procedural rights. A subsequent medical evaluation determined that you were not drug dependent. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 22 July 1994.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that you incurred mental health issues during military service. Specifically, you assert that your recruiter provided you with false or misleading information, including assurances that you would receive an advanced rank for submitting multiple enlistment referrals and that you would be compensated for travel expenses to your first duty station; expenses for which you were never reimbursed. You also assert that, while driving through the installation one day, you were stopped by military police for a broken taillight. During the stop, the officer reportedly detected the odor of marijuana, which led to a drug screening. You subsequently tested positive for marijuana, resulting in an administrative discharge with an Other Than Honorable (OTH) characterization of service. You contend that this incident marked the abrupt end of your aspirations to serve your country, your family was devastated, you felt you had deeply disappointed them, and that you were left feeling betrayed by your recruiter; whose misleading assurances contributed to your severe trauma. You believe these cumulative factors caused you to experience significant and lasting psychological trauma. Following your discharge, you report struggling with substance abuse, periods of incarceration, and multiple suicide attempts. You have experienced homelessness, currently reside in a transitional veterans' shelter, and have not possessed a valid driver's license in over 25 years. You maintain that prior to your discharge, you were a capable and contributing member of society and that your separation from the military was the pivotal event that led to the unraveling of your personal and professional life. 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.

Based on your assertions that you incurred mental health concerns during military service, which may have contributed to the circumstances of your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 4 June 2025. The AO stated in pertinent part:

Petitioner submitted the following items in support of his claim:

- Letter (May 2023) noting completion of residential treatment
- Aftercare plan noting diagnosis of Cocaine Use Disorder/Severe (May 2023)
- Outpatient medical records (November 2023)
- Outpatient records from ██████████
Warren noting diagnoses of Depression NOS, Cocaine withdrawal, Cocaine Dependence, and Antisocial Personality Disorder (May 2020, June 2023)
- Post service accomplishments

The Petitioner's record is sparse; however, there is no evidence that the Petitioner was diagnosed with a mental health condition during his military service or that he suffered from any symptoms incurred by a mental health condition. He submitted evidence of mental health conditions that are temporally remote to service. Furthermore, none of the evidence submitted notes a nexus between post-service mental health and in-service misconduct. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition or that [such a condition] existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

After a 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 and admission of drug abuse, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it included 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. Further, the Board noted you provided no evidence, other than your statement, to substantiate your contentions regarding your recruiter. Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that existed in service. As explained in the AO, your post-service diagnoses are temporally remote to your service. 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. As a result, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

While the Board carefully considered the evidence you submitted in mitigation and commends you for your rehabilitation efforts, 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,

8/7/2025

