



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

[REDACTED]  
Docket No. 1296-25  
Ref: Signature Date

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

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 15 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 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 and your response to the AO.

You enlisted in the Navy and began a period of active duty on 27 September 1999. On 27 July 2000, you received your first non-judicial punishment (NJP) for violating Article 123a of the Uniform Code of Military Justice (UCMJ) due to knowingly drafting 16 checks with insufficient funds, made out to the Navy Exchange during a 2-week period of 3-17 April 2000, for a total amount of \$834.22. For a three-year period following this NJP, you incurred no additional misconduct and were therefore awarded the Good Conduct Medal on 27 July 2003.

On 4 February 2004, the Navy Drug Screening Laboratory reported your urinalysis screening sample as positive for use of methamphetamine. You elected to make a voluntary statement at that time in response to your positive urinalysis, stating, “this is not possible, only thing I take are dietary supplements ... I’m not guilty and I will try to fight this to the end.” You were subject to a second NJP on 8 February 2004 and found you guilty for violating Article 112a of the UCMJ due to wrongful use of the controlled substance, methamphetamine. Consequently, you were notified of processing for administrative separation by reason of misconduct due to drug abuse and commission of a serious offense. You elected to request a hearing before an administrative board and the hearing convened on 14 March 2004. After hearing all evidence with respect to your professed innocence, the administrative board substantiated both bases for separation, recommended your separation for the basis of misconduct due to drug abuse, and recommended your separation be characterized as General (Under Honorable Conditions). Following completion of the review and processing of your separation recommendation, you were so discharged on 12 April 2004.

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 change your narrative reason for separation to “convenience of the government.” You contend that you experienced ongoing racial trauma during your service that caused you to develop mental health symptoms, your condition impacted your ability to serve, you have since been diagnosed with post-traumatic stress disorder (PTSD) and a traumatic brain injury (TBI), and you have regular meetings with your psychologist. Regarding your allegation of experiencing racial trauma, you describe that a service member who had been harassing you due to your race ultimately hit you in the face with a bat during an athletic game, which required stitches and fractured your nose, and this incident caused you to have nightmares and flashbacks. Later in your Navy career, you were working 18-19 hours per day and began using energy pills to stay awake. Despite your previous, in-service protestations of innocence regarding drug use, you now admit that you started using methamphetamine to cope with job pressures and racism. You also claim that you abused this stimulant to forget the trauma of the assault you experienced. Although you initially experienced a downhill period after your discharge, due to having lost your rank and the job you cared about, you eventually began treatment in 2005. You also acknowledge that you relapsed in 2016 during your divorce but have since completed a treatment program with the Department of Veteran Affairs (VA) in May 2024. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your legal counsel’s brief, your personal statement, service records excerpts you submitted, a service health record documenting your injury, post-service VA treatment records for your diagnosed conditions, and a letter of support from your mother.

Because you contend that post-traumatic stress disorder (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 a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition or PTSD. During his administrative proceedings, he adamantly denied the use of methamphetamine; currently, he admits to use thereof citing racial discrimination

as a precursor to methamphetamine use. This may call into question his candor. Furthermore, he did not verbalize any concerns regarding any discriminatory behavior or mental health concerns of any kind during separation proceedings. He submitted evidence of mental health diagnoses that are temporally remote to service and that do not specifically mention the events in service that he claims caused his post-service mental health conditions. Finally, the nature of his misconduct is not typical of that which would be expected to be caused by symptoms of PTSD.

The AO concluded, “it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition (PTSD).”

In response to the AO, you provided rebuttal evidence in support of your application.

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 noted that methamphetamine is a schedule II controlled substance with a high potential for abuse and, barring medically prescribed uses, and is squarely against current Department of Defense regulations; likewise, it is not permitted for recreational use anywhere within the United States.

Further, the Board determined that characterization under OTH conditions is generally warranted for misconduct and 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; however, the members of your administrative separation board found sufficient mitigating factors to recommend that you be discharged under Honorable conditions. As such, the Board found that you have already been granted considerable clemency based, more likely than not, in part, on your unwavering denial of drug abuse that you now admit was fabricated. Therefore, the Board found no basis to grant further clemency in your case.

Finally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to your PTSD diagnosis. As explained in the AO, your diagnosis is temporally remote to your military service and fails to mention the traumatic events you now claim caused your drug abuse. This fact, along with your previous adamant denial of drug abuse, raised serious issues regarding your candor in this matter. 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 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,

9/4/2025

