



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. 1610-25
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.

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 5 September 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 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 qualified mental health provider. 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 based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty service on 5 July 1989. Your pre-enlistment physical examination, on 21 September 1988, and self-reported medical history both noted no psychiatric or neurologic conditions, history, or symptoms. On 16 October 1989, you reported for duty on board the █ in █.

On 9 November 1989, you received non-judicial punishment (NJP) for both insubordinate conduct and an assault. You did not appeal your NJP.

On 2 February 1990, you received NJP for assault consummated by a battery. You did not appeal your NJP. On the same day, your command issued you a "Page 13" retention warning (Page 13) documenting your: (a) assault, (b) disobeying a direct order, and (c) having false identification cards. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and/or processing for administrative separation.

On 4 May 1990, you received NJP for failing to obey a lawful order/regulation. You did not appeal your NJP. On the same day, your command issued you a Page 13 documenting your NJP. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and/or processing for administrative separation.

On 3 August 1990, you received NJP for the misbehavior of a sentinel/lookout. You did not appeal your NJP. On 18 September 1990, your command issued you a Page 13 retention warning documenting your lack of responsibility by not maintaining a complete sea bag. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and/or processing for administrative separation.

On 1 October 1990, you received NJP for: (a) willful disobedience of a superior commissioned officer, (b) resisting apprehension, and (c) two instances of being an accessory after the fact. You did not appeal your NJP.

On 17 June 1991, you received NJP for the wrongful use/possession of a controlled substance. You did not appeal your NJP.

Consequently, your command notified you of administrative separation proceedings by reason of: (a) misconduct due to a pattern of misconduct, (b) misconduct due to the commission of a serious offense, and (c) misconduct due to drug abuse. You waived your rights to consult with counsel, submit statements, and to request a hearing before an administrative separation board.

On 21 June 1991, your separation physical examination and self-reported medical history both noted no psychiatric or neurologic conditions, history, or symptoms. On 26 June 1991, your commanding officer (CO) recommended to the Separation Authority (SA) that you should receive an under Other Than Honorable conditions (OTH) characterization of service. On 8 July 1991, the SA approved your discharge with an OTH characterization of service by reason of pattern of misconduct. Ultimately, on 19 July 1991, you were separated from the Navy with an OTH discharge characterization and assigned an RE-4 reentry code.

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 upgrade your discharge and change your reason for separation. You contend that: (a) the discharge was unfair at the time and remains so now, (b) you should receive liberal consideration, (c) the discharge is inequitable and procedurally defective, (d) your request if based on clear and compelling evidence of service-connected mental health conditions, (e) your PTSD and migraines were untreated and

unacknowledged at the time of your discharge, as well as procedural irregularities in the administrative separation process led to your separation, (f) you have endured significant personal and professional challenges as a result of your unjust discharge characterization which continues to negatively impact your life, (g) the evidence demonstrates that your separation was the result of untreated service-connected conditions and errors in the discharge process, and (h) an upgrade would restore your honor, provide access to essential benefits, and offer you the opportunity to rebuild your life following years of unnecessary hardship. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 8 July 2025. As part of the Board's review, the Board 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 suffered from any symptoms incurred by a mental health condition. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and any mental health condition. Furthermore, it is difficult to conceptualize how the nature and pervasiveness of his misconduct could have been due to PTSD.

The Ph.D. 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."

After thorough review, the Board concluded these potentially mitigating factors and contentions 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 that you suffered from any type of mental health condition while on active duty, or that any such mental health condition was related to or mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 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, willful, and persistent, 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 also determined that there was no credible or convincing evidence in the record regarding any command misconduct, improper motives, or abuses of discretion in the investigating, handling and processing of your administrative separation. The Board

unequivocally concluded that your administrative separation was legally and factually sufficient and that no error materially prejudicial to your substantial rights was committed.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 2.5 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 3.0 in conduct (proper military behavior), for a fully Honorable characterization of service. The Board concluded that your cumulative misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your serious misconduct and a failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

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. 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.

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 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.

Sincerely,

9/11/2025

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Executive Director

Signed by: █