



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

██████████
Docket No. 1650-25
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 limitations 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 19 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 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)/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 an advisory opinion (AO) furnished by a qualified mental health professional on 25 June 2025. Although you were provided with an opportunity to respond to the AO, you chose not to do so.

You entered active duty with the Marine Corps on 17 January 2001. On 7 August 2001, you were formerly counseled on being in an unauthorized absence (UA) status for two hours and 15 minutes. On 19 October 2001, you received non-judicial punishment (NJP) for an orders violation by wearing an earring. On 25 January 2002, you received NJP for another orders violation by having alcohol, candles, and filled ashtrays in your barracks room. On 7 March 2002, you received NJP for five specifications of UA, breaking restriction, and drinking alcohol while on restriction. On 11 July 2002, you received NJP for being in a UA status that lasted four hours.

On 12 July 2002, you were formerly counseled on consuming alcohol while participating in the alcohol prevention after treatment program. On 9 September 2002, you were formerly counseled after admitting to larceny of money and a credit card. On 10 October 2002, you were formerly counseled due to being three hours late to your appointed place of duty. On 18 November 2002, you received NJP for smoking in the barracks. Consequently, you were notified of pending administrative separation action by reason of misconduct due to pattern of misconduct. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation and you were so discharged on 5 February 2003.

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 contentions you incurred mental health issues during military service, you suffered from depression and alcoholism, and you received no assistance to help with your problem. You further contend you rebuilt your life, managed to achieve personal growth, and contributed positively to society. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149, DD Form 214, and personal statement.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The mental health professional 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. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and a mental health condition. 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) may aid in rendering an alternate opinion.

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."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and multiple counseling, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given several 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, contrary to your contention that you received no assistance, the Board noted your record is replete with formal counselings that offer multiple

offers of assistance. Furthermore, the Board observed that you were provided alcohol rehabilitation treatment and continued to drink alcohol while in an aftercare program.

Finally, the Board concurred with AO that there is insufficient evidence to attribute your misconduct to a mental health condition. As pointed out in the AO, there is no evidence you were diagnosed with a mental health condition during your military service or that you suffered from any symptoms incurred by a mental health condition. The Board also agreed that your personal statement is not sufficiently detailed to provide a nexus between your misconduct and a mental health condition. 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 your continuous 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. 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,

9/3/2025

