



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

██████████
Docket No. 1823-25
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 8 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 and your response to the AO.

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 with a pre-service history of marijuana use and began a period of active duty on 6 January 1989. On 6 July 1989, you received non-judicial punishment (NJP) for three specifications of violations under Article 86 of the Uniform Code of Military Justice (UCMJ), due to unauthorized absences, as well as an offense under Article 92, by failing to obey a lawful order not to violate your page 13 administrative remarks warning. You were issued administrative counseling in conjunction with this NJP advising you to correct your conduct deficiencies. The following month, you received a second NJP for substantially similar offenses

under Articles 86 and 92 of the UCMJ. You were again issued administrative counseling remarks that advised you to “obey rules without questioning authority.” From 16 November 1989 through 19 December 1989, you absented yourself without authority and, following your voluntary return to military control, you received a third NJP for two additional specifications of Article 86 offenses. On 10 January 1990, you received a fourth and final NJP for violation of Article 112a of the UCMJ due to wrongful use of cocaine. Consequently, you were notified of processing for administrative separation by reasons of misconduct due to drug abuse, due to commission of a serious offense (COSO), and due to a pattern of misconduct. Your command recommended that you be discharged under Other Than Honorable (OTH) conditions. The separation authority approved the recommendation for the primary basis of COSO and you were so discharged on 2 March 1990.

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 suffered from chronic post-traumatic stress disorder (PTSD) and severe Major Depression which were untreated during your service. You admit having been addicted to cocaine but assert that your substance abuse resulted from self-medication of psychological pain. Post-discharge, you attended a 12-step recovery program in 2021 and have remained drug and alcohol free since that time. You also are a community activist, employed full time at a rehabilitation outreach center in ██████████ assisting the homeless population with housing, mental health referrals, and rehabilitation services. You dream of opening a non-profit veteran housing shelter. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and four letters of support.

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:

During military service, the Petitioner was diagnosed with a substance use disorder. Substance use is incompatible with military discipline and readiness and does not remove responsibility for behavior. There is no evidence that he was diagnosed with another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, “There is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition, other than substance use disorder.”

In response to the AO, you submitted a letter from a licensed clinical social worker which provided additional information regarding your mental health condition.

Based on your rebuttal evidence, the AO's conclusion was revised to state "There is some post-service evidence from a civilian provider of a diagnosis of PTSD that may be attributed to military service."

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 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 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 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.

Additionally, the Board concurred with the AO there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition, other than substance use disorder. The Board determined it is difficult to attribute your in-service cocaine abuse to undiagnosed mental health concerns given your repeated denials of mental health symptoms during military service and your pre-service history of marijuana use. Likewise, your diagnosis letter appears to reference having been exposed to "gun battles" and witnessing civilians being shot; however, the Board found insufficient evidence in your history of assignments that you were attached to a military unit which would have resulted in such exposure. Although the Board favorably noted your recent rehabilitation and efforts toward community involvement, the Board observed that more than 30 years passed between your discharge and your sobriety.

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,

8/27/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]