



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

[REDACTED] Docket No. 1858-25

Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 29 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. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 30 May 1984. You incurred three periods of multi-day unauthorized absence (UA) from 11 March 1985 through 4 May 1985; each was terminated by your voluntary surrender to military authority. On 9 May 1985, you were tried and convicted by Summary Court-Martial (SCM) for offenses under the Uniform Code of Military Justice (UCMJ) due to three specifications of Article 86 violations for your periods of UA. Subsequently, you were issued administrative counseling advising you of your pattern of minor disciplinary infractions, and you warning you to correct your conduct deficiencies. You then incurred two additional periods of UA, during June 1985 and July 1985, from which you voluntarily returned. You were then tried by Special Court-Martial (SPCM), on 8 August 1985, and convicted for UCMJ violations to include two specifications under Article 86 and an

additional violation of Article 134 due to breaking restriction. Your sentence included a Bad Conduct Discharge (BCD). After completion of all levels of review, you were so discharged on 26 December 1985.

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 developed paranoid schizophrenia while aboard ship, you were involved in an altercation during which you were hit over the head with a metal soup ladle, this resulted in you being sent to the brig for 30 days, your contended mental health condition has since affected your family and social life, and you have apparently been medicated for schizophrenia for the past 34 years. You also believe that you have post-traumatic stress disorder (PTSD) from the altercation and believes that your mental illness was caused by the traumatic brain injury (TBI) which you incurred during the altercation. You would like to be able to attend veteran functions with your daughter who you state is also in the military. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and DD Form 214 without any additional documentation.

Because you contend that PTSD, TBI, or another mental health condition such as schizophrenia affected the circumstances of the misconduct which resulted in your discharge, the Board also considered the AO. The AO stated in pertinent part:

Petitioner was evaluated during military service, and there is no evidence that he was diagnosed with a mental health condition or TBI. There is evidence that he sought treatment for symptoms that could be indicators of a mental health condition or TBI, but he received no diagnosis. He has provided no medical evidence to support his claims. There is insufficient information to attribute his misconduct to TBI, PTSD, or a mental health condition. 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, TBI, or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD, TBI, or another mental health condition."

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 SCM and SPCM, outweighed these 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 multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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, the Board concurred with the AO that there is insufficient evidence that your misconduct may be attributed to PTSD, TBI, or another mental health condition. As explained in the AO, you provided no medical evidence in support of your claim. 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 the severity of your serious 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 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,

9/18/2025

