



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

██████████
Docket No. 1900-25
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 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 4 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, 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional. 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 on the evidence of record.

During your enlistment processing you disclosed pre-service marijuana use and were granted an enlistment waiver. You enlisted in the U.S. Marine Corps and began a period of active duty on 10 January 2003. On 22 July 2004, you were formally counseled regarding the consumption of alcohol while under the age of 21 and you elected not to submit a statement in rebuttal. From

19 July 2004 through 19 September 2005, you were awarded two Letters of Appreciation and two Meritorious Masts. You were also awarded the Iraq Campaign Medal for your service during the period from 15 July 2005 to 2 February 2006.

On 27 September 2006, you received nonjudicial punishment (NJP) for damaging a vehicle belonging to another Marine and for drunken and disorderly conduct. Subsequently, you were diagnosed with Alcohol Abuse and were recommended for participation in an outpatient treatment program. On 17 November 2006, you entered into a pretrial agreement to be tried by summary court-martial (SCM) and to voluntarily plead guilty to violations of the Uniform Code of Military Justice (UCMJ); specifically, Article 109, damage to non-military property, two specifications of Article 128, assault, and drunk and disorderly conduct. On 21 November 2006 you were convicted by SCM of the offenses. You were sentenced to reduction in rank to E-1, forfeiture of \$841.00 pay for one month, and confinement for 30 days.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy for a pattern of misconduct; at which time you waived your right to consult with counsel and to present your case to an administrative discharge board. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 20 December 2006.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 22 March 2000, based on their determination that your discharge was proper as issued.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) you suffered from undiagnosed PTSD, (2) your discharge stemmed from an incident involving your then fiancée, also a combat veteran, at a time when you were both experiencing the psychological effects of combat trauma, (3) you were significantly influenced by alcohol use and undiagnosed PTSD, (4) you express deep remorse for your actions, have accepted full accountability, and affirmed that such behavior has no place in your life today, (5) since your discharge, you have demonstrated positive personal growth, a continued commitment to your community and country, and have sought treatment for both alcoholism and PTSD, (6) you have served as a positive role model for your son and have made deliberate efforts to lead a productive and honorable life, (7) you were recently diagnosed with Multiple Sclerosis, in addition to PTSD and other service-connected medical conditions, and (8) you are seeking a discharge upgrade in order to obtain access to necessary medical care and benefits through the Department of Veterans Affairs (VA). For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

Based on your assertions that you incurred mental health issues during military service, which may have contributed to the circumstances of your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 20 June 2025. 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 submitted buddy statements that note kinetic operations while deployed to Iraq; however, he did not submit any medical evidence in support of his claim. Furthermore, the nature and pervasiveness of his misconduct exceeds that of what would be expected to be caused by PTSD symptoms. 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 any mental health condition."

After a 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 NJP and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard for military authorities and regulation. The Board observed you were given an opportunity 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 also determined that you were granted a great deal of clemency when your pretrial agreement was approved, particularly considering the nature of offenses. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities.

Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that existed in service and insufficient evidence to attribute your misconduct to any mental health condition. As explained in the AO, you did not submit any 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 your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service. 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,

8/15/2025

