



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

Docket No. 1907-25
Ref: Signature Date

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 22 July 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

You enlisted in the Navy and began a period of active duty on 26 September 2000. On 5 January 2001, you reported onboard [REDACTED] for duty. On 6 February 2001, you received non-judicial punishment (NJP) for absence without leave and missing ship's movement through design. On 13 April 2001, you received your second NJP for absence without leave, assaulting or willfully disobeying a superior commissioned officer, insubordinate conduct, and drunkenness incapacitation for performance of duties through prior wrongful indulgence in intoxicating liquor or drug. On 18 January 2002, you received your third NJP; however, the specifics of the charge and specification were not available in the record.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your DD Form 214, you were separated from the Navy, on 26 September 2000, with an "Under Other Than Honorable Conditions (OTH)" characterization of service, your narrative reason for separation of "Misconduct," reenlistment code of "RE-4," and separation code of "HKQ;" which corresponds to misconduct due to commission of a serious offense.

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 character of service and contentions that: (1) your PTSD, anxiety, and depression, which were undiagnosed at the time, significantly impacted your behavior and ability to perform your duties, (2) you were suffering from PTSD, depression, and anxiety, which were undiagnosed and untreated, (3) your conditions impaired your judgment and led to behaviors that contributed to your discharge, (4) the events you experienced while serving, particularly in the aftermath of the ■ bombing and the heightened operational stress following 9/11, led to your unrecognized and untreated mental health conditions, and (5) the impact of your mental health conditions and their connection to your service were not properly understood or considered at the time of your discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, personal statement, statements on your behalf, and documentation from the Department of Veterans Affairs.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 12 June 2025. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a 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. Temporally remote to his military service, civilian providers have diagnosed him with PTSD and other mental health concerns considered to have onset during military service and contributed to his misconduct. However, it is difficult to consider that his current mental health concerns were sufficiently interfering in service to contribute to his misconduct given the lapse of more than 20 years prior to symptoms significantly distressing as to result in seeking treatment. Additionally, the VA has denied service connection for mental health concerns. Complete 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 some post-service evidence from civilian providers of diagnoses of PTSD and other mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health concern.”

In response to the AO, you submitted a statement and additional medical documentation that provided additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

After thorough review, the Board concluded your 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 concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service, but you continued to commit additional 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.

Further, the Board concurred with the AO that, while there is some post-service evidence from civilian providers of diagnoses of PTSD and other mental health concerns that may be attributed to military service, there is insufficient evidence to attribute your misconduct to PTSD or another mental health concern. As the AO explained, throughout your disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Furthermore, it is difficult to consider that your current mental health concerns were sufficiently interfering in service to contribute to your misconduct given the lapse of more than 20 years prior to symptoms significantly distressing as to result in seeking treatment. The Board agreed there is no evidence that you were diagnosed with a mental health condition in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Finally, the Board determined your diagnosis from a civilian provider is too temporally remote from your military service. 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. 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,

7/31/2025

