



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

Docket No. 2234-25  
Ref: Signature Date

Dear

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 28 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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. 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 based on the evidence of record.

You previously applied to this Board for a discharge upgrade and were denied on 7 November 2012. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

However, 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 Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 13 July 1992, with an "Under Other Than Honorable Conditions (OTH)" characterization of service, narrative reason for separation of "Conduct triable by courts-martial (request for discharge for good of the service)," reentry code of "RE-4," and separation code of "KFS1;" which corresponds to conduct triable by courts-martial (request for discharge for good of the service).

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 change your discharge characterization of service and your contentions that your mother's death was very traumatic, was the reason for your UAs and subsequent OTH characterization of service, and you suffered from PTSD and were not offered mental health treatment. . For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statement, the death certificate, and counseling records.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 18 June 2025. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to the circumstances of his separation from service.

Petitioner contended he incurred mental health concerns after learning of the untimely death of his mother due to cancer, which contributed to his misconduct. He submitted evidence of a death in September 1990.

Petitioner provided evidence of an August 2024 evaluation for PTSD, with treatment through February 2025. During the evaluation, he described a combat deployment during "Desert Storm...by the oil wells, bombs close by, frequently covered with debris...was over run a few times and had to engage the enemy. Had fire watch and radio watch looking for the enemy. There were emergencies where ordinance was coming in and could have died."

There is no evidence that he was diagnosed with a mental health condition in military service. Temporally remote to his military service, he received a diagnosis of PTSD attributed to combat deployment. There are some inconsistencies with his service record and his current report that raise doubt regarding the reliability of his recall. It is difficult to attribute his misconduct to PTSD or other mental health concerns, particularly given misconduct prior to his combat deployment and the death of his mother that appears to have continued after those events.

The AO concluded, “There is post-service evidence from a VA provider of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition.”

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 five non-judicial punishments and separation in lieu of trial, 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 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 noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge.

Additionally, the Board concurred with the AO and determined that, while there is post-service evidence from a VA provider of a diagnosis of PTSD that may be attributed to military service, there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition; particularly given the UA periods that occurred prior to your mother’s death and your deployment. 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,

8/12/2025

