



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

██████████
Docket No. 2394-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 limitations 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 13 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 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)/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). The Board also considered an advisory opinion (AO) provided by a qualified mental health professional on 25 June 2025. Although you were provided with an opportunity to comment on the AO, you chose not to do so.

You entered active duty with the Navy on 8 July 1999. On 12 April 2001, you received non-judicial punishment (NJP) for disobedience, wrongful use of marijuana, and adultery. Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse and commission of a serious offense. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to drug abuse and commission of a serious offense, and recommended you be discharged with an Other Than Honorable (OTH) discharge. The

separation authority concurred with the ADB and directed your discharge by reason of misconduct due to drug abuse. On 20 December 2001, you were so discharged.

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 and contentions that you incurred mental health issues (PTSD) and traumatic brain injury (TBI) during military service resulting from your ship being involved in a collision, the collision left you traumatized and emotionally unstable, you smoked marijuana to cope with your traumatizing experience, and you would like to receive Department of Veterans Affairs (VA) benefits. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The AO stated in pertinent part:

There is no evidence that Petitioner was diagnosed with a mental health condition or head injury in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition or TBI. He has provided no medical records to support his claims. There are inconsistencies in his record that raise doubt regarding his candor. Available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given his denials of guilt. 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. There is insufficient evidence of a diagnosis of PTSD or TBI that may be attributed to military service.

The AO concluded, "There is insufficient evidence of a diagnosis of PTSD or TBI that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or TBI."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJP, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug related 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. The Board found that your conduct showed a complete disregard for military authority and regulations. The Board also concurred with the AO that is insufficient evidence that your misconduct may be attributed to PTSD or TBI. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition or head injury in military service, or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition or TBI. 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.

Further, the Board noted that there is no evidence in your record, and you submitted none to support your contentions. Finally, 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.

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 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,

8/26/2025

