



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

[REDACTED]
Docket No. 2588-25
Ref: Signature Date

[REDACTED]

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 21 November 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 an advisory opinion (AO) furnished by qualified mental health provider that was considered favorable to you.

You enlisted in the Navy on 25 October 2010. Your pre-enlistment physical examination, on 18 February 2009, and self-reported medical history both noted no neurologic or psychiatric conditions, symptoms, or treatment history. As part of your enlistment application, on 13 April 2010, you signed and acknowledged the "Drug and Alcohol Abuse Statement of Understanding." Following completion of your initial recruit training, on or about 5 March 2011, you reported for duty on board the [REDACTED] homeported in [REDACTED].

On 9 January 2013, you received non-judicial punishment (NJP) for the wrongful use of a controlled substance (marijuana). You received the maximum permitted NJP punishment. You did not appeal your NJP.

Following your NJP, your command notified you that you were being processed for an administrative discharge by reason of misconduct due to drug abuse. You waived your right to request a hearing before an administrative separation board. Ultimately, on 8 February 2013, you were discharged from the Navy for misconduct with an under Other Than Honorable conditions (OTH) characterization of service and assigned an RE-4 reentry code.

On 21 January 2021, the Naval Discharge Review Board (NDRB) upgraded your OTH discharge characterization to General (Under Honorable Conditions) (GEN). You had contended, in part, that PTSD was a mitigating factor in your misconduct. The NDRB determined that full relief to Honorable and changes to your narrative for separation and RE-code were not granted because the NDRB did not find that your post-service mental health diagnosis rose to a level that would completely absolve you of your misconduct.

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 for a discharge upgrade and change to your reason for separation. You contend that: (a) your service-connected PTSD mitigates the single instance of misconduct that led to your departure from the Navy, (b) considering the totality of the circumstances and in the interests of fundamental fairness, your discharge status warrants an upgrade, (c) justice would be served by upgrading your discharge status because, had your discharge occurred today, your PTSD would have been discovered at the time of discharge and recognized as a contributing factor to your pre-discharge conduct, (d) you were other than honorably discharged from the U.S. Navy at a time when PTSD was not well-recognized or understood, especially within the military culture, (e) since then, the tides have turned, and the military (and, in particular, the Navy) recognizes how important it is to provide screening and treatment for PTSD, instead of punishment, (f) cultural attitudes, medical understanding, and many laws regarding use of marijuana, particularly for people suffering from PTSD, have softened, and (g) for several years you lived without proper medical care, with the trauma of what you witnessed overseas while serving your country, and with an undeserved social stigma stemming from your PTSD-diagnosis and OTH discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 14 July 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner submitted evidence of a June 2018 mental health consult with the Department of Veterans Affairs (VA) in which he was diagnosed with Adjustment Disorder with Mixed Disturbance of Conduct...He provided evidence of treatment of mental health diagnoses of Generalized Anxiety Disorder and Major Depressive

Disorder with the VA from September 2018...He was granted service connection for PTSD, effective February 2020.

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. However, he has received service connection for PTSD. It is possible to consider substance use as a behavioral indicator of PTSD symptoms.

The Ph.D. concluded, "There is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is post-service evidence from the Petitioner that his misconduct may be attributed to PTSD or another mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, notwithstanding the AO, the Board concluded that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. Even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board concluded that the severity of your drug-related misconduct in your specific circumstances outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also 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.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade beyond what was already granted by the NDRB, as well as any other ancillary requested relief. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record during your active duty service. The Board believed that, even though flawless service is not required for an Honorable discharge, in your case a GEN discharge and no higher was appropriate. The Board determined that characterization under GEN or OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that illegal drug use by a Sailor is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military.

As a result, the Board determined that there was no impropriety or inequity in your upgraded GEN discharge and concluded that your misconduct and disregard for good order in discipline clearly merited your current discharge characterization and no higher. 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,

12/3/2025

