



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

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Docket No. 2703-25  
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 25 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional on 11 July 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy Reserves and began a period of active duty on 25 August 1987. Upon your enlistment, you admitted preservice use of a controlled substance-marijuana. On 26 August

1988, you received non-judicial punishment (NJP) for wrongful use of two control substances - marijuana and cocaine. Subsequently, you testing positive for cocaine twice and were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse.

On 28 November 1988, you began a period of unauthorized absence (UA) which lasted two days. On 7 December 1988, you decided to waive your procedural rights pertaining to your administrative separation. On 9 December 1988, you received a second NJP for a period of UA from appointed place of duty. On 13 December 1988, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 28 January 1989, the separation authority approved the recommendation and you were so discharged on 3 March 1989.

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 contentions that: (a) you joined the Navy straight out of high school because you had a child on the way, (b) you were young, unexperienced, and immature, (c) you were introduced to drugs while in service, (d) you became a new father with a new career and neither of those were your choices, (e) you did not think you had a problem but the more stressed you felt, the more you thought drugs were the solution, (f) you were never offered help for your drug addiction and no one sat down with you and discussed the reasons for your drug use, (g) you were screamed at, called names, and ridiculed by the same people who were using and supplying the drugs. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, an advocacy letter from your spouse, and excerpts from your service medical record.

As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition or any symptoms incurred by a mental health condition. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between any mental health condition and his in-service misconduct. Additional records (e.g., active duty medical and mental health records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would 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 a mental health condition."

After 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug offenses. 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. Additionally, the Board found that 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, contrary to your contentions that you were introduced to drugs upon entering the Navy and not offered assistance for your drug abuse, the Board noted you admitted to preservice drug abuse as part of your enlistment processing and were assigned to a drug surveillance program during your time in the Navy that included treatment. In fact, your second NJP was due to your failure to attend your weekly urinalysis screening. Therefore, the Board questioned your candor regarding this matter.

Finally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. As explained in the AO, you provided no medical evidence of a mental health condition and your personal statement is not sufficiently detailed to provide a nexus with your misconduct. 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 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 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,

9/10/2025

