



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. 3175-25
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 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 2 September 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). In addition, the Board considered an advisory opinion (AO) from 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 enlisted in the U.S. Navy and began a period of active duty on 15 June 1994. After a period of continuous Honorable service, you immediately reenlisted and commenced another period of active duty on 29 September 2000.

On 3 February 2004, you received non-judicial punishment (NJP), for dereliction of duties for willfully failing to charge 58 leave requests and authorization forms totaling 435 days, with intent to deceive sign an official form which was totally false in that the leave control number was issued to another Sailor, and steal U.S. currency equivalent to 10 days leave, military property of a value of \$750.37 the property of the US Treasury. On 12 February 2004, you received your second NJP for five specifications of failure to go to restriction muster, breaking restriction, and unauthorized possession of a military identification card. Subsequently, you were notified of administrative separation processing for pattern of misconduct and commission of a serious offense and elected an administrative discharge board (ADB). On 14 April 2004, the ADB determined you met both bases for separation and recommended your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. Your Commanding Officer accepted the ADB's recommendation and you were so discharged on 20 May 2004.

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 reinstatement of your rank. You contend that your service was mischaracterized due to severe mental health challenges you were experiencing at the time which significantly affect your behavior and decision making. You also contend that these struggles deeply impacted your ability to cope and led to a mistake for which you have always taken full responsibility. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 9 July 2025. The Ph.D. stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service or that he suffered from any symptoms incurred by a mental health condition. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and a mental health condition. Post-service diagnostic summary provided does not include Petitioner's name or source of diagnostics. Additional records (e.g., active duty medical 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 Ph.D. 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 found that your conduct showed a complete disregard for military authority and regulations. 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 your misconduct exposed a lack of integrity. Further, the Board noted that you already received a large measure of clemency when the ADB assigned you a GEN discharge despite your record of misconduct that normally warrants an Other Than Honorable characterization of service.

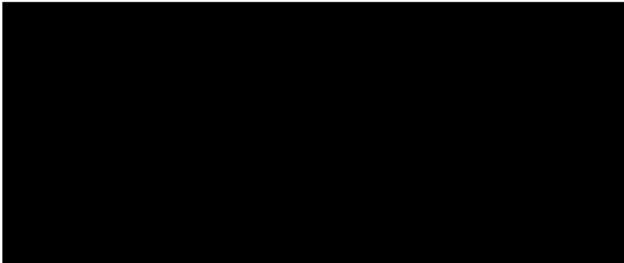
Furthermore, the Board concurred with the AO and determined there is insufficient evidence to attribute your misconduct to a mental health condition. As explained in the AO, your personal statement is not sufficiently detailed to provide a nexus between your misconduct and a mental health condition. Additionally, your post-service diagnostic summary provided does not include your name or source of diagnostics. 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 discharge¹. 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,

9/12/2025



¹ In making this finding, the Board also found no basis to reinstate your rank.