



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

Docket No. 3356-25
Ref: Signature Date

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 8 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active service on 1 September 1987. After a period of continuous Honorable service, during which you immediately reenlisted twice, you began your final period of active duty on 2 October 1987. On 3 April 1987, you reported for instructor duty at the [REDACTED]. On 20 March 1989, a special court-martial (SPCM) convicted you of violations of the Uniform Code of Military Justice (UCMJ), that included Article 80, for attempting to misuse your position as urinalysis coordinator by inducing an Airman Recruit to socialize with you, Article 93, for mistreating an Airman Recruit by offering to influence her career in exchange for socializing with you, and three specifications of Article 134, for (1) wrongfully endeavoring to alter the

testimony of a Torpedoman's Mate Second Class, a witness before a court-martial, by asking him to change his testimony, (2) wrongfully endeavoring to alter the same witness's testimony by asking a Machinist's Mate Second Class Petty Officer to persuade the Torpedoman's Mate Second Class Petty Officer to change his testimony, and by (3) wrongfully communicating to an Aviation Storekeeper Third Class Petty Officer a threat to obtain a firearm and kill the Torpedoman's Mate Second Class Petty Officer. You were sentenced to reduction in rank to E-1, confinement for 75 days, and a Bad Conduct Discharge (BCD). In May 1989, you were evaluated by the Psychology Clinic which found no evidence of a mental health disorder. On 24 February 1990, you were discharged with a BCD.

The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your request for an upgrade of your discharge and your contentions that you incurred mental health issues during military service. You acknowledged that your actions were wrong and that you allowed your rank to influence your behavior. You admitted that you improperly used your rank and position for personal gain. You further stated that, since your discharge, you have consistently demonstrated responsibility and integrity in civilian life. You emphasized that over the past 35 years you have been a dedicated family man, a reliable and trustworthy employee, and a law-abiding citizen. You noted that you have maintained positive relationships with coworkers, contributed to producing quality work, and strived to conduct yourself in a mature and productive manner. You further contended that you are a better person today than you were at the time of your infractions. 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.

Based on your assertions that you incurred mental health issues during military service, which may have contributed to the circumstances of your separation, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 22 July 2025. The AO stated in pertinent part:

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. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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.

The AO concluded, "There is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his in-service misconduct may be attributed to a mental health condition."

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced

by your SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. Additionally, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. The Board determined that the record clearly reflected your misconduct was intentional and willful, and indicated you were unfit for further service.

Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to military service or your misconduct. As the AO explained, you have not provided any medical evidence in support of your claims. 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 is attached 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,

9/22/2025

Executive Director

Signed by: