



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 3587-25

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 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 23 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 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) from a qualified mental health professional. Although you were provided an opportunity to comment on 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 Marine Corps and commenced a period of active duty on 18 June 2002. On 5 June 2003, you received non-judicial punishment (NJP) for underage drinking, not having a liberty buddy, and signing the liberty log using the wrong age. On 5 January 2004, a special court-martial (SPCM) convicted you of two specifications of unauthorized absence (UA) totaling

41 days. As a result, you were sentenced to confinement for 120 days, forfeiture of pay, reduction to E-1, and a Bad Conduct Discharge (BCD). After completion of all levels of review, you were so discharged on 25 April 2005.

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 PTSD and mental health issues due to experiencing hazing and harassment while serving in the Marine Corps. You further contend that unforeseen circumstances contributed to you missing your return flight, which was not considered during your trial, and you were not able to access appropriate care and support for your mental health issues. 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 it.

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:

During military service, Petitioner was appropriately evaluated by a military psychiatrist. He was diagnosed with a mental health condition that may be attributed to military service. An Adjustment Disorder typically tends to resolve once the stressor, such as military service, has been removed. The Petitioner was also diagnosed with ADHD, which considered to be a lifelong condition that may not be attributed to military service. There is no evidence of a diagnosis of PTSD. While it is possible that symptoms of ADHD, such as impulsivity or poor attention to detail, may have contributed to missing his flight, it is difficult to attribute extended UA to ADHD or difficulty adjusting. It is also difficult to attribute his underage drinking and attempts at subterfuge to a mental health condition. His mental health concerns were known in service and would have been considered during his trial. Additional records (e.g., in-service or 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. Based on a review of all available evidence, it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service.

The AO concluded, "it is my clinical opinion there is in-service evidence of a mental health condition (Adjustment Disorder) that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

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 and SPCM, outweighed the potential 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. The Board observed you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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. Additionally, the Board noted you provided no evidence, other than your statement, to substantiate your allegations regarding your SPCM, your mistreatment, and the circumstances of your periods of UA.

Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to a mental health condition, other than an adjustment disorder. The Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your military medical records. However, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. 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 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,

11/19/2025



Executive Director
Signed by: [REDACTED]