



Docket No. 3762-25
Ref: Signature Date

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 5 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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).

You previously applied to this Board for an upgrade to your characterization of service and were denied relief on 2 October 2024. As part of the previous Board's decision, it considered an advisory opinion (AO) that addressed your mental health claims. Before this Board's denial, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. In your NDRB application, you did not raise mental health concerns nor did you deny your drug abuse. The NDRB denied your request for an upgrade, on 13 December 1999 and 10 March 2005, based on their determination that your discharge was proper as issued. The summary of your service remains substantially unchanged from that addressed in the Board's most recent decision.

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 character of service and contentions that: (1) you experienced significant psychological distress, including symptoms of depression, frustration, and feelings of being trapped while stationed onboard ■■■■■■■■■■, (2) your symptoms were documented in your medical records, you reported ongoing emotional struggles, and you expressed a desire to be discharged because of your deteriorating mental state, (3) you followed the advice of a shipmate to admit to using marijuana so that you would be sent to inpatient care to receive mental health treatment, (4) you were unaware of the long-term consequences of your admission of using marijuana, (5) had you received the treatment that you needed, it was your hope and intention to continue serving and retire with a full military career, (6) your records and circumstances demonstrate that your mental health condition significantly affected your time in service, (7) your actions were not the result of misconduct but rather of an unaddressed and misunderstood need for psychiatric care, and (8) serving in the Navy was an honor, and you deeply regrets that your mental health challenges were not adequately addressed at the time. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your statement, documentation from the Department of Veterans Affairs, and health care documents.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your non-judicial punishment for the wrongful use of marijuana, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. 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. Further, 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. The Board also considered the negative effect your misconduct had on the good order and discipline of your command. Furthermore, the Board found that your misconduct was intentional and made you unsuitable for continued naval service.

Finally, despite the conclusion of the AO issued in your prior application to this Board, the Board found insufficient evidence that your misconduct had a nexus to a mental health condition. This finding was based on your morphing contentions between your original admission of drug abuse, your application to the NDRB, and your two applications to this Board. Therefore, the Board determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions.

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 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

8/18/2025

