



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

Docket No. 3804-25
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.

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 9 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) (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. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 21 September 1992. On 13 December 1992, you reported to [REDACTED] for Temporary Duty. On 11 March 1993, you received non-judicial punishment (NJP) for failure to obey a lawful order or regulation by leaving your barracks after your liberty was secured. Additionally, you were issued an administrative remarks (Page 13) retention warning counseling concerning deficiencies in your performance and conduct. You were provided recommendations for corrective action and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation.

On 10 April 1993, you reported to ■ for duty. On 14 August 1994, you received NJP for larceny of personal property and received a Page 13 retention warning counseling concerning deficiencies in your performance and conduct. You were again provided recommendations for corrective action and advised any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. On 7 October 1994, you were found guilty by a summary court-martial (SCM) of a period of unauthorized absence, totaling 19 days, and missing movement during that period.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to pattern of misconduct and commission of a serious offense. You were informed of the basis for this recommendation and that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You waived your right to consult with counsel and to present your case to an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy. As part of the CO's recommendation, he stated in pertinent part:

The presence of this member in an operational environment seriously impairs combat readiness, security, efficiency and morale. Strongly recommend that this member be separated with an Other Than Honorable discharge.

The separation authority approved the recommendation for the basis of pattern of misconduct and you were so discharged on 9 December 1994.

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 contention that: (1) you were a victim of a crime, (2) you were accused of a crime that you did not commit which there still has been no resolve, and (3) your "one bad choice" has haunted and altered your life. You assert that since your discharge, you have coached youth football, done volunteer work for the state senator, attended church every Sunday, and maintained respectable employment. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statement, and health care documents.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 23 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. He has provided evidence of a diagnosis of PTSD that is temporally remote to his military service and discusses an event that occurred after his separation from service. 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 diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his in-service misconduct may be attributed to PTSD or another mental health condition.”

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evident by your NJPs and SCM convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service, but you continued to commit additional misconduct; which led to your OTH discharge. 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, 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. Regardless, contrary to your contention, the Board found that your record of misconduct includes multiple incidents of misconduct and was not limited to a single mistake.

Further, 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 insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact your medical evidence is temporally remote to your service. Additionally, 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. 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,

9/29/2025

