



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. 3891-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your late son's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your son's 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 you¹ 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 29 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 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 an advisory opinion (AO) furnished by qualified mental health provider and your AO rebuttal submission.

You enlisted in the U.S. Navy and began a period of active duty service on or about 8 June 2001. Your pre-enlistment physical examination, on 25 May 2001, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. On your enlistment application, you

¹ "You" and "your" will be individually or collectively used to refer to either you, or your deceased son (former Airman Recruit, U.S. Navy), as applicable.

disclosed pre-service marijuana usage. On 6 October 2001, you reported for duty on board the ██████████.

On 15 August 2002, you commenced an unauthorized absence (UA) that terminated on 11 September 2002. On 18 September 2002, you received non-judicial punishment (NJP) for your 27-day UA. You did not appeal your NJP.

On 2 October 2002, you received NJP for the wrongful use of marijuana. You did not appeal your NJP.

Following your second NJP, your command notified you that you were being processed for an administrative discharge by reason of misconduct due to drug abuse. While your discharge was pending, you commenced another UA on 29 October 2002. Ultimately, on 15 November 2002, you were separated from the Navy for misconduct *in absentia* with an Other Than Honorable (OTH) discharge characterization and assigned an RE-4 reentry code. As of the separation date, your second UA period totaled seventeen (17) days.

On 14 August 2014, the Naval Discharge Review Board (NDRB) denied your initial discharge upgrade application. The NDRB determined, in part:

There is no indication in the evidence of record or in the documentation submitted by the Applicant that the Applicant was recommended or processed for a medical board by proper authority. Further, the evidence of record does not indicate that proper authority erred by not initiating a medical board for the Applicant.

The Applicant contends personal problems caused his misconduct. While the Applicant may feel that his grandmother's death and fear of the Afghanistan war were contributing factors to his misconduct, they do not mitigate his disobedience of the orders and directives that regulate good order and discipline in the Naval Service, demonstrating he was unsuitable for further service. Relief denied.

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 change to your reason for separation. You contend that: (a) it is not too late for this Board to clear your name and to recognize your actions for what they were; symptoms of a condition that you had no control over and one that would haunt you for the rest of your life, (b) it is also not too late to clear your name for the sake of your memory and family, (c) it is patently unjust to allow the OTH to remain, (d) your undiagnosed and untreated PTSD outweighs your discharge, (e) your use of marijuana was clearly an effort to self-medicate the symptoms of your condition, (f) with regards to the UA, you surrendered on your own following a period of grief after the loss of a beloved uncle, which was compounded by your PTSD, and (g) had you received the diagnoses and care you needed and deserved, you surely would have continued to be the reliable and vital Sailor you started out to be. 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 your application.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 28 April 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no medical evidence of a diagnosis of PTSD, and the Petitioner has provided no evidence. Unfortunately, there is insufficient evidence to attribute his misconduct to a mental health condition, given pre-service behavior that appears to have continued in-service and his UA prior to the precipitating event of the death of his uncle.

The Ph.D. concluded, "There is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence that his misconduct may be attributed to PTSD."

Following a review of your AO rebuttal submission, the Ph.D. did not change or otherwise modify their AO.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any purported mental health conditions and/or related symptoms and your misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. The Board also 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.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. Additionally, the Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. 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 determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor.

The Board also noted that you left the Navy while you were still contractually obligated to serve and you went into a UA status on two (2) separate occasions without any legal justification or excuse for a total of approximately forty-four (44) days.

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 in discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation and is genuinely sorry to hear about the loss of your son last November, 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 late son's misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Lastly, the Board declined to act on your request to add certain deployments to your DD Form 214 until you exhaust your administrative remedies. The Board recommends that you first request that Navy Personnel Command, in Millington, Tennessee, review your service record to determine your eligibility for, and entitlement to, any additional decorations, medals, badges, commendations, citations, campaign ribbons, and deployment notations on your DD Form 214.

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,

9/4/2025

