



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. 4065-25
Ref: Signature Date

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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 30 May 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 provided an opportunity to respond to 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 Navy after receiving a waiver for two non-minor misdemeanors and commenced active duty on 24 October 1995. On 26 June 1998, you joined the █
█ for duty. On 28 July 1999, you received non-judicial punishment (NJP) for drunk driving. Additionally, you were issued an administrative remarks (Page 13) counseling

concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 4 April 2000, you received NJP for wrongful use of cocaine. Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse, commission of a serious offense, and pattern of misconduct. You elected to consult with legal counsel and waived your rights to submit a statement or have your case heard by an administrative discharge board. The separation authority subsequently directed your discharge with an OTH characterization of service for pattern of misconduct and you were so discharged on 26 April 2000.

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 change your discharge characterization of service and your contentions that you were a good Sailor and Corpsman, you failed a single urinalysis, and you suffer from PTSD, depression, and anxiety. The medical documentation you provided indicates your PTSD index trauma is from your “time on naval ship USS Cole.” For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your petition, your statement, the advocacy letters, and the medical documentation you provided.

As part of the Board’s review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 21 April 2025. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to the circumstances of his separation.

Petitioner submitted medical records from the Department of Veterans Affairs (VA) describing treatment from November to December 2024 for diagnoses of PTSD, chronic; Methamphetamine Use Disorder, severe; Cocaine Use Disorder, severe, in FSR (fully sustained remission) >10 years; Tobacco Use Disorder, moderate; and Alcohol Use Disorder, moderate, in FSR since 2020. “Someone slid a table and shut the door and it sounded like the hatch from his initial trauma...Endorsed a history of substance use: alcohol (in FSR [finding and sustaining recovery] 4 yrs [years]), tobacco (30 pack years, declined interest in quitting), Methamphetamine (DOC [drug of choice]), and cocaine (in FSR >10 yrs)...no formal past psychiatric history...He reports symptoms consistent with a diagnosis of PTSD, index trauma being ■ and unable to experience [sic] however also had significant witnessed DV [domestic violence] in childhood and FBI rated that his troublesome to him [sic].”

He submitted a March 2025 letter that he completed a 6-month treatment program for substance use disorder from November 2024 to March 2025. He provided a statement in support of his experience and evidence of character.

There is no evidence that he was diagnosed with a mental health condition in military service, although there is in-service behavioral evidence of a possible substance use disorder. Temporally remote to his military service, he has received treatment from the VA for a number of mental health conditions, including PTSD and several substance use disorders. While it appears that his diagnosis of PTSD may be attributed to an in-service trauma, there is some inconsistent information regarding his purported traumatic precipitant that raises doubt regarding the Petitioner's candor or the reliability of his recall over time. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct, particularly given his preservice behavior.

The AO concluded, "There is some post-service evidence from a VA provider of a diagnosis of PTSD that may be related to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition, other than a possible substance use disorder."

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 NJPs, 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. The Board also 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 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.

Finally, the Board concurred with the AO that there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition, other than a possible substance use disorder. As explained in the AO, while it appears that your diagnosis of PTSD may be attributed to an in-service trauma, there is some inconsistent information regarding your purported traumatic precipitant. As pointed out, your VA medical record annotates that you claim your trauma is related to your service onboard ■ and, presumably, related to its bombing on 12 October 2000. Based on the fact you were never assigned to ■ and discharged for misconduct well prior to the attack, the Board questioned your reliability as a historian and your candor with the VA and this Board. 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.

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,

6/4/2025

