



**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. 4235-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 22 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, and applicable statutes, regulations, and policies, to include to 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) (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). Because you maintain your mental health claims, the Board also reconsidered the advisory opinion (AO) of a qualified mental health<sup>1</sup>. You were previously provided an opportunity to respond to the AO and chose not to do so.

You previously applied to the Board contending that you suffered mental health issues during your service that impacted your conduct. You also provided documentation related to your post-service accomplishments, a character letter, and a letter from your Congressional representative.

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<sup>1</sup> The Board did not request a new AO due to the lack of new medical information for consideration which might have rendered an alternate opinion.

Your original request was considered on 20 November 2023 and denied in light of the seriousness of your misconduct and an unfavorable AO.

You later sought reconsideration of your claims of injustice and post-discharge character, contending that your discharge has resulted in your being denied employment and has forced you to overcome significant obstacles over the past 35 years due to the stigma of your characterization of service. You reiterated your claim that a psychiatric condition impacted the circumstances of your misconduct; however, you did not submit any new medical evidence for consideration which might have warranted a new AO. The Board's decision on reconsideration reiterated that your in-service Personality Disorder (PD) diagnosis of passive aggressive attitude is considered to be a characterological condition, as addressed in the initial AO. You contended that your misconduct stemmed from an alcohol problem, which you attributed to your mental health problems and your need for family crisis counseling. You also submitted evidence of post-service behavior and accomplishments for consideration of clemency and equity, to include three character letters. The Board reconsidered your request for an upgraded discharge on 1 November 2024; again, the Board found the mitigating factors insufficient to outweigh the seriousness of your misconduct and denied relief, noting that one of your letters of support described your service in a manner which was wholly contradicted by your service records and observing that you had been fortunate not to receive a punitive discharge for your misconduct.

The summary of your service is, again, substantially unchanged from that addressed in the Board's previous decisions. Of significant note was that your conviction by General Court-Martial (GCM) involved unlawfully entering the dwelling of another, commission of indecent assault, and false statements under oath.

Again reconsidering your request on the basis of new clemency evidence, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and change your narrative reason for separation to Secretarial Authority. You reiterated contentions that your discharge is an injustice due to the impact it has had on your life for the past 35 years, to include denial of employment, and the fact you have overcome it to become a successful and respected manager. You believe that you have made amends for your misconduct, which you describe as being neither premeditated and not "that of serious a crime," and that your additional letters of support reflect that your current character and behavior render your discharge an injustice. You also do not believe that your in-service misconduct should result in an indelible stain upon your reputation. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, four additional character letters, your high school diploma, and your high school transcript<sup>2</sup>.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and GCM, outweighed these 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 multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct;

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<sup>2</sup> With respect to the latter documents, the Board noted that your discharge record reflects that you were a high school graduate or equivalent and therefore found no error warranting correction.

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. The Board was also not persuaded by your contention that you have made amends for your misconduct. They found it contradictory that you purport to accept responsibility for your misconduct while attempting to downplay the severity of it by claiming the misconduct was not that serious of a crime. The Board could not disagree more. In addition to your integrity offenses with respect to issuing false statements, even when under oath, you were also convicted of housebreaking and of the very serious, personally violating crime of indecent assault. The Board noted you only escaped further trial proceedings on the additional element of housebreaking *with intent to commit rape* and on the additional charge of attempted rape after the government agreed to accept of your request for a pre-trial agreement to plead guilty to the lesser charges of which you were convicted. The Board found those lesser charges were also egregiously serious in nature.

Additionally, although you continue to contend that post-traumatic stress disorder (PTSD) or another mental health condition affected the circumstances of the misconduct which resulted in your discharge, you have not provided any new medical evidence which might render an alternate clinical conclusion from a new AO. Therefore, the Board continued to concur with the prior AO that your in-service misconduct appears characterological, consistent with your diagnosed personality disorder (PD), such that it does not mitigate the misconduct which resulted in your GCM conviction or discharge. To explain in the most straightforward and plain manner possible, the Board observed that offenses such as intentionally issuing false statements, for the purpose of deceit, and committing indecent assault, with intent to satisfy lust or sexual desire, are not of the nature to which PTSD or another mental health diagnosis might normally be considered to contribute to or mitigate. Whereas your PD appears far more likely to have contributed to such actions. In this regard, the Board noted that the guidance in the Kurta memo regarding liberal consideration does not extend to your diagnosed PD, which is characterological in nature and is considered to have existed prior to your entry onto active duty. 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.

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,

9/10/2025

