



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 4259-25

Ref: Signature Date

[REDACTED]

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 18 November 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.

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 and began a period of active duty on 11 April 1988. On 3 February 1989, you were issued an administrative remarks (Page 13) retention warning counseling concerning deficiencies in your performance and conduct; specifically, writing checks that were returned for insufficient funds. 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 3 August 1990, you received non-judicial punishment (NJP) for failure to obey other lawful order. On 5 September 1989, you were issued a Page 13 counseling concerning your failure to pay debts/financial irresponsibility resulting from a notification of a delinquent account. On 7 October 1989, you received your second NJP for a period of unauthorized absence totaling three days.

On 5 June 1990, you were issued a Page 13 counseling concerning deficiencies in performance and conduct; specifically, unwillingness to pay a just debt to a shipmate in a timely manner and continuing problems with returned unpaid checks. On 13 July 1990, you were issued a Page 13 counseling concerning deficiencies in your performance and conduct; specifically, wrongful removal of hospital property from the hospital, failure to wash all clothing which may have been infested, and failure to field day the NBQ room as instructed. On 26 July 1990, you received your third NJP for wrongfully appropriate a motor vehicle the property of a Marine service member.

Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to 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 elected your right to consult with counsel but you waived your right to present your case to an administrative discharge board and submit a written statement in rebuttal to your separation. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an OTH characterization of service. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] has been and continues to be an administrative and disciplinary burden to this command. He has encountered difficulties with the military on several occasions resulting in three CO's NJP's. [Petitioner] has been counseled both formally and informally on numerous occasions for dishonored checks, poor performance, and financial irresponsibility. His performance evaluations document his substandard performance and conduct. [Petitioner] has been given many opportunities to resolve his difficulty to adjust to the military with no noted improvement. Based on his poor military history and his continuing problems, I strongly recommend he expeditiously be administratively separated from the United States Naval Service.

The separation authority approved the CO's recommendation and you were so discharged on 3 October 1990.

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 you were experiencing undiagnosed mental deficiencies that resulted in your discharge. For purposes of clemency and equity consideration, the Board

considered the totality of your application; which included your DD Form 149 and a letter from a psychiatric nurse practitioner.

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 13 August 2025. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service or that he suffered from any symptoms incurred by a mental health condition. He submitted post-service evidence of diagnoses of PTSD and Generalized Anxiety Disorder; however, no corroborating documentation was submitted to ascertain the rationale for the given diagnoses. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and any mental health condition. Furthermore, writing checks with insufficient funding and stealing an automobile are not typical behaviors that are caused by PTSD or Anxiety. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion.

The AO concluded, "There is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition (PTSD)."

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 multiple Page 13 counseling's concerning your conduct and performance and three NJPs, 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 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,

12/2/2025

[REDACTED]