



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

Docket No. 4699-25
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.

A three-member panel of the Board, sitting in executive session, considered your application on 25 March 2026. The names and votes of the members of the panel 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, applicable statutes, regulations, and policies, to include 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)/mental health condition (MHC) (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 and your response to the AO.

The Board carefully considered your requests to: (1) set aside or expunge your Summary Court-Martial (SCM); (2) restore your rank to Master Sergeant (MSgt); (3) change your narrative reason for separation to "Sufficient Service for Retirement," or "Secretarial Authority," with corresponding change of your separation code to "NDB1" or "JFF;" and (4) remove all mention of the SCM from your Official Military Personnel File (OMPF). You contend that: (1) the SCM was flawed, as the evidence was not sufficient and the outcome not supported by the best reading of law, regulation, or policy; (2) you did not receive appropriate legal advice concerning available defenses, the possibility of being acquitted at a contested trial, and the ramifications of pleading guilty to Article 128 at SCM; (3) the SCM Officer (SCMO) was improperly trained and failed to determine whether there was an adequate basis in law and fact to support the SCM plea

before accepting it; (4) your punishment relative to the offense warrants clemency when weighed against the backdrop of your outstanding military service; and (5) your PTSD, coupled with use of alcohol as self-medication, likely led to impaired impulse control, a common symptom of both PTSD and intoxication, and that this impairment likely contributed to the poor judgment that resulted in your misconduct.

As preliminary matters, regarding your discharge, because it occurred in 2023, and 15 years have not yet passed, you must exhaust available administrative remedies by first applying to the Naval Discharge Review Board (NDRB) for discharge-related relief. Further, regarding your SCM, the Board does not have the authority to set aside a SCM. Pursuant to the Rules for Court-Martial (RCM) 1307, you had the right to appeal your conviction within five days of sentencing. Your failure to appeal at that time forfeited that right. Unfortunately, this is the only formal appeal option for a SCM. However, you may attempt to exhaust potential administrative remedies by appealing to the SCM convening authority for your case, or if unsuccessful, you may attempt to appeal your case through the Office of the Judge Advocate General. Please know, however, that you are beyond established timelines and consideration is not guaranteed.

Notwithstanding the above, regarding your contentions related to the legitimacy of your SCM, the Board was not convinced by your argument. The Board relies on a presumption of regularity to support the official actions of public officers, and in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. Although you raise various concerns about your SCM, the Board found your evidence insufficient to overcome the presumption of regularity. Upon review of the record of the SCM, the Board noted you were advised of all rights available in the process, did not object to the SCM, and pleaded guilty to the charge. Furthermore, following conclusion, the proceeding was properly reviewed by the Staff Judge Advocate (SJA) and found to be without error. Also, as previously noted, you did not appeal your conviction.

Regarding your contentions related to your mental health, the Board concurred with the AO in its entirety. As the AO addressed, although there is evidence that you were diagnosed with an Adjustment Disorder and Alcohol Use Disorder in-service, there is no evidence that you were diagnosed with, or suffered from PTSD, or any other mental health condition or symptoms, while in-service. Rather, even after reviewing your rebuttal evidence, the Board agreed with the AO that it appeared your misconduct resulted from untreated severe alcohol use. The Board noted both that you were heavily intoxicated at the time of your misconduct, and also that you were offered alcohol rehabilitative treatment while in service, which you declined. As such, 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 SCM, outweighed these mitigating factors. 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 changing your record, or changing your record as a matter of clemency or equity.

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,

4/20/2026

