



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

[REDACTED]
Docket No. 4995-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 March 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 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). The Board also considered the advisory opinion (AO) of a qualified mental health provider and your response to the AO.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined your personal appearance was not necessary and considered your case based on evidence of record.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and began a period of active duty on 9 May 1989.

2. On 4 January 1991, you received nonjudicial punishment (NJP) for violating Article 86, Uniform Code of Military Justice (UCMJ), after failing to go at the time prescribed to your appointed place of duty.

3. On 12 March 1992, you received a second NJP for wrongful use and/or possession of the controlled substance, marijuana, in violation of Article 112a, UCMJ.

4. On 7 April 1992, a medical evaluation diagnosed you as alcohol dependent and a drug abuser.

5. Consequently, you were notified of processing for administrative separation by reason of misconduct due to drug abuse and elected to voluntarily waive your right to a hearing before an administrative separation board. The recommendation for your discharge under Other Than Honorable (OTH) conditions noted that you had confessed to using marijuana and tested positive on a urinalysis for cocaine metabolites. The separation authority approved your administrative separation with an OTH characterization of service for drug abuse and you were so discharged on 6 May 1992.

6. Post-service, you applied to the Naval Discharge Review Board (NDRB) contending that your discharge was inequitable because it was based on an isolated incident, you were a veteran of Desert Storm, and you had been working in civil service for 11 months with no problems. Your request was considered on 24 November 1997 and was denied. The NDRB noted the seriousness of drug abuse misconduct, regardless of your contention that it was an isolated incident.

In your application to this Board, you express a desire for your discharge character of service be upgraded and your reason for separation be changed. You contend that:

1. You incurred post-traumatic stress disorder (PTSD) or another mental health condition from traumatic incidents aboard the ██████████ ██████████ was placed in lockdown during a fire, with you and squadron-mates stuck in a small hatch below the flight deck for 12 hours, and you were also exposed to incoming missile threats.

2. These incidents resulted in symptoms of anger, anxiety, sleeplessness, and nightmares, and you attribute your drug abuse to self-medication of PTSD symptoms, first with alcohol and later with marijuana.

3. You did not knowingly use cocaine. Rather, you believe the positive urinalysis occurred due to using marijuana, provided by other sailors, and laced with cocaine.

4. You stopped using marijuana in 2005 and have remained sober since 2013.

5. You began working as a mechanic for the Department of Defense in 2007. In 2020, you began working for the Department of the Interior.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your admission of drug abuse and positive urinalysis. The Board noted you admitted to committing the drug abuse that formed the basis of your NJP and administrative separation. While the Board considered your contention of innocent ingestion of cocaine, it noted you provided no evidence, other than your statement, to substantiate your contention. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record or OTH characterization of service.

However, because you contend that PTSD or another mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

During military service, the Petitioner was diagnosed with an alcohol use disorder. There is no evidence of a diagnosis of PTSD or another mental health condition during military service. Temporally remote to his military service, he has received a diagnosis of PTSD that is attributed to military service by a civilian psychiatrist. It is possible that undiagnosed symptoms of PTSD may have contributed to or exacerbated problematic alcohol use. Unfortunately, there are inconsistencies in the Petitioner's report of his substance use over time that raise doubt regarding his candor or the reliability of his recall. It is difficult to attribute his substance use to self-medication given his denial of intentional use of cocaine and the inconsistent reports of his marijuana use.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is some post-service evidence from a civilian provider of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed solely to PTSD."

In response to the AO, you provided additional evidence in support of your application. After reviewing your rebuttal evidence, the AO remained unchanged due to the lack of any new medical evidence.

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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your post-service medical evidence. However, 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 and recognized the same concerns raised in the AO.

In addition to applying 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, the Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, among

other factors, your desire for an upgrade to your characterization of service and change to your reason for separation, your contentions, the totality of your service to include service highlights, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your post-service record of accomplishments, your current mental health issues, the evidence you provided in support of your application including the character references you provided for review, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, 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 found that your conduct showed a complete disregard for military authority and regulations. Your conduct was sufficiently serious to negatively affect the good order and discipline of your command. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. While the Board commends you for your post-service accomplishments and rehabilitation efforts, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice. Based on the same rationale, the Board also determined your reason for separation remains appropriate.

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 the 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 is attached 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,

4/10/2026

