



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

██████████
Docket No. 9402-25
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 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 2026. 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 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider and your response to that AO.

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.

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 17 April 2007.

2. On 25 July 2008, the ██████████ General District/Traffic Court found you guilty of driving while intoxicated. The Court sentenced you to an \$875 fine, \$226 court costs, 180 days in jail (suspended for 180 days) and suspension of your operator license for 18 months.

3. You were diagnosed with Alcohol Dependence and Nicotine Dependence, recommended Level III intensive outpatient treatment of Alcohol Use Disorder, and admitted to the Substance Abuse Rehabilitation Program (SARP) from 28 July 2008 to 22 August 2008.

4. On 9 September 2008, you received nonjudicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ), Article 111 (drunken and reckless operation of a vehicle) and Article 134 (underage drinking). You received punishment of 60 days restriction and reduction to the next inferior paygrade of E-1 (suspended).

5. On 23 December 2008, you were convicted at Summary Court Martial for violation of UCMJ, Article 112a (wrongful use of a controlled substance, cocaine). You were sentenced to confinement for 30 days and reduction in rank to paygrade E-1.

6. That same day, you were notified that administrative separation proceedings had been initiated against you on the basis of misconduct (drug abuse, civilian conviction, commission of a serious offense, and pattern of misconduct). You acknowledged your rights and waived your right to appear before an administrative separation board.

7. Ultimately, on 30 January 2009, you were discharged from the Navy on the basis of Misconduct due to Drug Abuse with an Other Than Honorable (OTH) discharge and a reentry code of RE-4.

In your application for correction to your record, you request an upgrade to your characterization of service to General (Under Honorable Conditions). You contend that:

1. You take full responsibility for your mistakes but you were struggling with untreated health issues, chemical exposure, and injuries that went unaddressed.

2. You made poor decisions over 17 years ago but have rebuilt your life through sobriety, family responsibility, and leadership.

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 record of misconduct. The Board noted you do not assert that you did not commit the misconduct that led to your civilian conviction, guilty finding at NJP, and Summary Court Martial conviction. Therefore, the Board determined the presumption of regularity applies to your administrative separation and OTH characterization of service. The Board concluded that no error exists with your record.

However, because you raised the issue of mental health, the Board also requested an AO. As

part of the Board's review, a licensed clinical psychologist reviewed your contentions and the available records and issued an AO on 11 February 2026. The AO was furnished to the Board and stated in pertinent part:

During military service, the Petitioner was appropriately evaluated and received intensive treatment for an alcohol use disorder. There is no evidence that he was diagnosed with another mental health condition in military service. Temporally remote to his military service, the VA has granted service connection for another mental health condition. Unfortunately, there is insufficient information regarding his mental health concerns to attribute his misconduct to a mental health condition other than alcohol use disorder. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is post-service evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition, other than alcohol use disorder."

In response to the AO, you state the Department of Veterans Affairs (VA) has granted service connection for adjustment disorder with mixed anxiety and depressed mood related to flight deck operations and hazardous environments as well as residuals of Traumatic Brain Injury, sleep apnea, migraines, and related cognitive symptoms. You also contend that you have demonstrated sustained rehabilitation over the past 18 years. The Board then received additional submissions from you, including information from a civilian psychotherapist dated 6 March 2026. The clinical psychologist reviewed your rebuttal evidence and determined that, even in consideration of the new information, the original AO remained unchanged.

The Board applied liberal consideration to your claim to have PTSD and other mental health conditions including Traumatic Brain Injury and to the effect that these conditions/experiences 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 to conclude that you may have developed a mental health condition during your naval service. This conclusion is supported by your post-service medical evidence as well as the AO. 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. In making this determination, the Board considered your Naval Medical Center ██████████ records from 2008, and noted that although you received extensive treatment for alcohol dependence, which included regular meetings and workshops in which issues and concerns were addressed, you do not appear to have either raised or sought care for other mental health/medical concerns. Furthermore, the treatment notes do not reflect that you raised or explored a nexus between other medical conditions and your in-service misconduct. Thus, even taking into consideration the VA's determination and the March 2026 assessment psychological information that you submitted, the Board concluded that there is insufficient evidence to find that the misconduct on which your administrative separation processing was

based was attributed to PTSD or another mental health condition. 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 misconduct more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying liberal consideration to your claimed mental health condition and its potential effect upon your conduct in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, the totality of your service to include service highlights, your relative youth and immaturity at the time of your misconduct, your post-service record of accomplishments, your service to your community, your candor and remorse, the character references you provided for review, your post-discharge efforts at rehabilitation, your mental health issues, 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 your misconduct recklessly placed others in harm's way by driving under the influence of alcohol and the wrongful use of a controlled substance while on active duty, thus placing the safety and well-being of both civilians and uniformed members at risk. The Board determined that your disregard for the safety of others and your criminal conduct as reflected in your service record were contrary to military core values and policy. 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 fully 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 that placed others at risk and warranted the early curtailment of their service. While the Board commends you for your post-service accomplishments and acknowledged the personal difficulties you have endured, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

Accordingly, given the totality of the circumstances, the Board determined 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,

4/6/2026

