



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

■  
Docket No: 1080-22  
Ref: Signature Date



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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 28 March 2022. 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 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). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 26 February 2022, which was previously provided to you, and your rebuttal letter received on 15 March 2022.

You enlisted in the Navy and began a period of active duty on 7 March 1979. On 26 July 1979, you received nonjudicial punishment (NJP) for 22 days of unauthorized absence (UA) and missing ship's movement. Additionally, you were counseled regarding your involvement of a discreditable nature with military authorities, and warned that further misconduct could result in administrative discharge action. On 30 April 1980, you were again warned that further misconduct could result in disciplinary action and administrative discharge action. On 8 May 1980, a psychiatric evaluation recommended your referral to a Counseling and Assistance Center for treatment. After an extended periods of UA, on 16 July 1982, you were convicted by special court-martial (SPCM) of three specifications of UA totaling 759 days. You were sentenced to

confinement at hard labor, a forfeiture of pay, a reduction in paygrade, and a bad conduct discharge (BCD). You received your BCD on 3 August 1983.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you was suffering from a mental health condition during your service. The AO noted that based on the available evidence, there is insufficient evidence that you may have incurred a mental health condition during military service. In addition, the AO concluded there is insufficient evidence that your misconduct could be attributed to a mental health condition.

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 Memo. These included, but were not limited to your assertions that although your action at the time were questionable, you believed the actions of your recruiter were unjustified and, therefore, you should not continue to be punished. You also contend you incurred a mental health condition from the disappointment of being promised one occupation by your recruiter and placed in a different occupation after your enlistment, which contributed to substance use and your decision to go UA. You claimed that in 2006, you were diagnosed with “Bipolar Disorder; Bipolar II Disorder, with psychotic tendencies; Major Depression; Borderline Personality Disorder; Anxiety; among other mental illnesses.” Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your misconduct that resulted in NJP and conviction by SPCM, outweighed these mitigating factors. In making this finding, the Board determined your conduct showed a complete disregard for military authority and regulations. As a result, they determined that your conduct continues to warrant a BCD. The Board also concurred with the AO that based on the available evidence, there is insufficient evidence that you may have incurred a mental health condition during military service or that your misconduct could be attributed to a mental health condition. The Board considered your rebuttal evidence to the AO but did not find it persuasive since it only comprised of your assertions without any medical documentation. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Please be advised that your request regarding your time in service and Sea Service credit are not under the purview of this Board until you have not exhausted your administrative remedies by applying to the Department of the Navy, Navy Personnel Command, █  
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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,

4/3/2022



Executive Director

