



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

█  
Docket No. 8564-22  
Ref: Signature Date

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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 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 17 April 2023. 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, 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)/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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO) on 6 March 2023. Although you were provided an opportunity to respond to the AO, 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 2 August 1979. On 7 July 1980, you were discharged to enter the Naval Academy. You graduated from Naval Academy, commissioned as an officer, and commenced a second period of active duty on 23 May 1984.

On 17 December 1987, you received nonjudicial punishment for two specifications of forgery after attempting to obtain credit from █ Bank by submitting falsified credit card applications of two fellow officers with forged signatures. As punishment, you were awarded a letter of reprimand. You appealed the NJP questioning the Navy's jurisdiction, the evidence submitted, and arguing the type of offense was traditionally a civilian matter. On 22 January 1988, Commander, Naval Air Force, U.S. Atlantic Fleet denied your appeal.

On 4 April 1988, you were notified of your pending administrative separation proceedings by reason of misconduct. On 9 June 1988, you pleaded guilty to petty larceny in █ General District Court and were sentenced to one day in jail and to pay a fine of \$100.00. On 29 June 1988, you were indicted in the Eastern District Court of █ on five counts that included bankruptcy fraud, access fraud, bank larceny, bank fraud, and mail fraud. On 10 August 1988, you pleaded guilty to access device fraud. On 25 August 1988, you submitted a letter of resignation for the good of the naval service in lieu of separation processing for misconduct and agreed to accept an Other Than Honorable (OTH) characterization of service. After being re-notified of your pending administrative separation proceedings by reason of misconduct, you waived your right to consult with military counsel and to have your case heard before an administrative discharge board.

On 30 November 1988, you were sentenced in the Eastern District Court of █ to four (4) years confinement and restitution of \$34,503.25 based on your earlier plea agreement. On 5 December 1988, Chief of Naval Personnel (CNP) recommended to the Secretary of the Navy that your resignation request for an OTH discharge be approved. On 13 December 1988, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) approved your resignation and directed your discharge with an OTH. On 19 December 1988, you were incarcerated at the Federal Correctional Institute, South Dakota. On 16 February 1989, you were discharged with an OTH characterization of service for commission of a serious offense.

The Board carefully weighed 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 and your contentions that you incurred mental health conditions (MHC) during military service, your condition was due to an unknown family history, an un-evaluated MHC existed while you were on active duty and currently exists, this condition was heightened in extreme conditions that existed during your time of service, and if the existing treatments were offered and provided to you then it may have resulted in a more acceptable performance of service and type of discharge. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

Based on your assertions that you incurred a mental health condition (MHC) during your military service, which might have mitigated your discharge characterization of service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided no medical evidence in support of his claims.

