



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

Docket No. 10501-24  
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.

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 31 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 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy after receiving a waiver for three pre-service driving with license revoked offenses and commenced active duty on 5 September 2003. On 23 January 2005, you commenced a period of unauthorized absence (UA) that ended in your surrender on 25 January 2005. On 8 March 2005, you commenced a period of UA that ended in your surrender on 17 March 2005. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 12 April 2005, you received non-judicial

punishment (NJP) for nine specifications of UA, three specifications of insubordinate conduct toward a warrant, non-commissioned or commissioned officer, and one specification of dereliction of duty by negligently failing to follow safety precautions as a member of the underway replenishment team. On 26 September 2006, you received NJP for two specifications of unauthorized absence, disrespect toward a chief petty officer, willful disobedience of a master chief petty officer, and willful dereliction of duty by sleeping on watch. Consequently, you were notified of pending administrative separation processing via notification procedures by reason of misconduct due to pattern of misconduct and commission of a serious offense. You elected to consult with legal counsel and submit a statement to the separation authority. In your discharge recommendation, your commanding officer (CO) discussed your request for a second chance as well as your medical record indicating anger management issues, depression, and attention deficit hyperactivity disorder (ADHD). The CO further noted that you had been formally counseled thirty-five times by seventeen different personnel. The separation authority subsequently directed your discharge with a General (Under Honorable Conditions) (GEN) discharge characterization of service, and you were so discharged on 29 December 2006.

The Board carefully considered 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 characterization of service and change your narrative reason and separation code. You contend that your characterization of service was unjust because your medical condition was not considered, your misconduct was a result of a service-connected medical condition, and that you received a general discharge “after only attending DRB hearing and not a court martial.” You also contend that you are considered permanently unemployable due to your condition but “maintain positive civic activities” and hope that an upgrade to your character of service will reflect your present and future civic services. For purposes of clemency and equity consideration, the Board noted you provided a Department of Veterans Affairs (VA) benefits letter, rating decision, and retraining certificate but no supporting documentation describing post-service civic activities or advocacy letters.

As part of the Board’s review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 14 February 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns during military service, which may have contributed to his separation from service.

In November 2006, his command reported that he was evaluated and diagnosed with Depression and Attention Deficit/Hyperactivity Disorder (ADHD), and that his provider noted that he struggled with anger management. No service mental health records were available for review. He claimed that he was diagnosed with ADHD in 2005 “by ship’s psychologist” but denied any mental health symptoms during his separation physical.

Petitioner has been granted service connection for Bipolar Disorder, effective January 2024.

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His Depression and ADHD diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinicians. Temporally remote to his military service, the VA have granted service connection for another mental health condition. Unfortunately, there is insufficient information to attribute his misconduct to a mental health condition, given the chronic and repetitive nature of his misconduct.

The AO concluded, “it is my clinical opinion that there is in-service and post service evidence from the VA of mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition.”

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 NJPs and multiple counselings, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your GEN discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Additionally, the Board concurred with the AO and determined that, while there is in-service and post service evidence from the VA of mental health concerns that may be attributed to military service, there is insufficient evidence to attribute your misconduct to a mental health condition. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

With respect to your contention that your medical conditions were not considered, the Board noted that your commanding officer specifically addressed your diagnoses in his recommendation for discharge. The Board was also not persuaded by your contention that it was unjust for you to be discharged after only attending a DRB hearing and not a court martial. The Board considered that administrative discharges do not require court martial proceedings. In the end, the Board found that you already received a large measure of clemency when you were processed for administrative separation using notification procedures despite your extensive record of misconduct that normally warrants processing with administrative discharge board procedures that allow for an Other Than Honorable characterization of service.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the

seriousness of your misconduct. 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,

4/16/2025

