



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

██████████
Docket No. 11348-24
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 24 September 2025. The names and votes of the members of the panel 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 (USD (P&R)) (Kurta Memo) and the 4 April 2024 clarifying guidance from the USD (P&R) regarding cases involving both liberal consideration discharge relief requests and fitness determinations (Vazirani Memo) (collectively "the Clarifying Guidance"). The Board also reviewed the 14 August 2025 advisory opinion (AO) from a qualified medical professional and your response to the AO.

The Board noted you have previously petitioned the Board on several occasions dating back to 1992 and, your most recent submission, requested a disability retirement or discharge from the Navy based on your schizophrenia, post-traumatic stress disorder, and anxiety. In your current request, you have again requested to be "place[d] into Navy Disability Retired" but you also requested an Honorable characterization of service and back pay with "retroactive promotions from December 1974 to 2004 when Veterans Affairs started to pay [you] disability." The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

In your current request, you assert your requested relief should be granted "in accordance with the Kurta Memo...on mental illness grounds" because "[b]oth Veterans Affairs and [the] Social

Security Administration [have] ruled [you] suffer[ed] from mental illness at the time of discharge...as well as [the] Navy Forensic Psychiatrist appointed by this Board.” As supporting evidence, you submitted a statement explaining that your son’s seizures and your wife’s admission she had had seizures “took [your] head off” resulting in the periods of unauthorized absence which led to your “illegal discharge.” In your statement, you also contend the medical officer erroneously determined you were “not mentally ill.” You specifically contend the medical officer, who was not trained as a mental health professional, should have “followed regulation and sent [you] for a [neuropsychiatric] exam.” Additionally, in your rebuttal to the AO, you also contend your “courts martial and AWOLs [are] evidence [you were] suffering from mental illness...and not competent to accept or sign for other than honorable discharge.” Lastly, in your AO rebuttal, you contend your immaturity “was really mental illness.”

In order to assist in reviewing your petition, the Board obtained the 14 August 2025 AO from a qualified medical professional. The AO concluded there is insufficient evidence your misconduct may be attributed to or mitigated by a mental health condition. The AO further stated that review of all available in-service medical and personnel records “did not reveal any evidence [you] had psychological symptoms or conditions, nor sought mental health evaluation or treatment throughout [your] military service” from either military or civilian health care providers. Even in your request for discharge in lieu of court-martial, the AO noted you did not mention psychological symptoms or conditions affecting your military service or influencing your decision to absent yourself. Additionally, the AO stated the Senior Medical Officer was “fully credentialed in the course of his duties to perform mental health examinations for diagnostic purposes and determine if further consultations were clinically indicated.” Lastly, the AO reviewed the evidence you submitted of post-discharge mental health conditions, determined the “diagnoses and clinical opinions rendered temporally distant to [your] military service contained less probative value than evaluations and diagnoses rendered contemporary to [your] military service,” and concluded there is insufficient evidence you should have been referred to the Disability Evaluation System or that your in-service misconduct should have been mitigated by a mental health condition.

The Board carefully reviewed your petition and the material you provided in support of your petition, and disagreed with your rationale for relief. The Board determined the new evidence and the contentions, as fully noted above, provide insufficient evidence of an error or injustice in the Navy’s original decision to grant your request for an Other Than Honorable (OTH) discharge in lieu of trial by court-martial. Further, the Board determined the evidence does not overcome this Board’s previous denial of your request for medical discharge or change to your characterization. Specifically, the Board, in keeping with the letter and spirit of the Clarifying Guidance, gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service. As set forth in the Vazirani Memo, the Board first applied liberal consideration to your assertion that your mental health condition potentially contributed to the circumstances resulting in your discharge to determine whether any discharge relief is appropriate.

Thus, the Board began its analysis by liberally examining whether your mental health condition actually excused or mitigated your discharge. Consistent with the finding of the AO, the Board determined there was insufficient evidence your misconduct could be attributed 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. 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 serious misconduct more than outweighed the potential mitigation offered by any mental health conditions. Thus, the Board affirmed its previous decision that your assigned characterization of service remains appropriate.

With respect to the next step of review under the Vazirani Memo consisting of the Board's analysis of your request for a service disability retirement, the Board determined there was insufficient evidence demonstrating an error or injustice in your misconduct-based discharge. The Board again concurred with the AO that the preponderance of objective clinical evidence provides insufficient support for your contention that at the time of his discharge you were unfit for continued military service and should have been referred to the Disability Evaluation System. The Board noted you were never referred to a medical board by a military medical provider, your chain of command did not state that you were unable to perform your assigned duties as a result of a qualifying disability condition, and none of your service medical records revealed evidence of psychological symptoms or disability conditions that would have supported your referral to a medical board. Finally, the Board considered that you were administratively separated for misconduct that resulted in an OTH that would have superseded any military disability processing. Based on these factors, the Board was not persuaded by your contentions regarding the findings of the Department of Veterans Affairs and Social Security Administration regarding your post-discharge mental health status and determined the evidence remains insufficient to grant you the military disability benefits you desire.

In conclusion, in its review and liberal consideration of all of the evidence and its careful application of the Clarifying Guidance, the Board did not observe any error or injustice in your naval records. Accordingly, given the totality of the circumstances, the Board determined your request does not merit your requested 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,

11/20/2025

