



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

██████████  
Docket No. 1800-25  
Ref: Signature Date

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Dear ██████████

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 Board waived the statute of limitation 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 8 August 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 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). The Board also considered the advisory opinion (AO) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 10 January 1991. On 7 May 1991, you received nonjudicial punishment (NJP) for violation of Article 108 of the Uniform Code of Military Justice (UCMJ) due to destruction of unspecified government property. On 30 October 1992, you commenced a period of unauthorized absence (UA) that ended with your return on 16 November 1992. Upon your return, you were immediately placed into psychiatric hospitalization where you reported that your father was sick, your girlfriend had suffered a miscarriage, you went absent without leave and smoked marijuana, and you had "drug charges pending." You were diagnosed with an Adjustment Disorder with mixed disturbance of emotions and conduct, Cannabis Abuse, and a Personality Disorder with narcissistic, antisocial, and dependent features. You were released on 16 December 1992 and subsequently received a

second NJP for your period of UA, which violated of Article 86 of the UCMJ. You were also issued administrative counseling advising you that further misconduct could result in administrative discharge. On 10 May 1993, you commenced another period of UA that ended with your return on 11 May 1993. You received your third NJP for this Article 86 offense. Although records pertaining to your court-martial conviction were not retained in your record, you were convicted by court-martial with a sentence which included a punitive discharge<sup>1</sup>. On 23 February 1994, following the affirmation of the findings and sentence of your SPCM by the appellate review authority, your Bad Conduct Discharge (BCD) was executed.

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, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and your contentions that: (1) your mental state was not good during your service and (2) you were diagnosed with mental health issues during service, prior to your discharge, and (3) your offenses resulted from a psychotic episode rather than willful misconduct. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and service medical records you provided in support of your application.

Because you contend that post-traumatic stress disorder (PTSD) or another mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition [within the meaning of the Kurta memo] during his military service or that he suffered from any symptoms incurred by a mental health condition. He was diagnosed with an Adjustment Disorder following a month of psychiatric hospitalization. He was also diagnosed with a Personality Disorder. Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an inpatient hospitalization. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. Unfortunately, he has provided no medical evidence to support his claims. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to any mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your

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<sup>1</sup> The Board was able to discern from your DD Form 214 that you had "lost time" from 10 May 1993 to 29 August 1993 and you were assigned a BCD as a result of a court-martial conviction.

NJPs and court-martial conviction, 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 OTH 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. Despite the absence of records pertaining to your court-martial proceedings, the Board applied a presumption of regularity regarding the propriety of those proceedings and your sentence of a punitive discharge; especially considering that it would not have been ordered executed without thorough appellate review.

Additionally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to any mental health condition. As explained in the AO, you provided no medical evidence in support of your claim. While the Board noted your service medical records that documented your post-UA hospitalization and adjustment disorder/personality disorder diagnoses, the Board observed those records specifically state that you did not possess a psychiatric disease or condition and were medically qualified for worldwide assignment. Thus, the Board was not persuaded by your contention of a psychotic episode and 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.

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.

As noted previously, your record lacks information pertaining to the offenses for which you were convicted. Should you contemplate seeking reconsideration at a future date, whether on the basis of clemency or mental health considerations, the Board recommends that you first obtain sufficient documentation of your SPCM trial proceedings. You may submit a request for your trial records to the Office of the Staff Judge Advocate (Code 40). Information for submitting such requests may be available via the following website:  
<https://www.jag.navy.mil/about/organization/ojag/code-02/code-40/> .

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

8/27/2025

[REDACTED]