



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

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Docket No. 2744-25
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.

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 5 December 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, 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). Additionally, the Board also considered the advisory opinion (AO) furnished by a qualified mental health provider and your AO rebuttal.

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 U.S. Navy and began a period of active duty service on 1 February 1999. Your pre-enlistment physical examination, on 20 January 1999, and self-reported medical history both noted no psychiatric or neurologic conditions, symptoms, history, or counseling. You

specifically did not disclose any mental health-related concerns, history, or disabilities on your self-reported medical history.

On 9 April 1999, upon the completion of your initial recruit training (“boot camp”), you reported to Service School Command for your “A” School. On 15 June 1999, you commenced a period of unauthorized absence (UA). On 19 July 1999, your command declared you to be a deserter. Your UA terminated after approximately 115 days on 8 October 1999.

Following your return to military control, you submitted a voluntary written request for an administrative discharge for the good of the service to avoid trial by court-martial for your long-term UA. As a result of this course of action, you were spared the stigma of a court-martial conviction for your UA, as well as the potential sentence of confinement and the negative ramifications of receiving a likely punitive discharge from a Military Judge. Prior to submitting this voluntary discharge request you were afforded the opportunity to consult with counsel, but you knowingly, intelligently, and voluntarily waived such right. In your discharge request, you admitted you were guilty of committing your long-term UA offense as charged. You acknowledged and understood that with an under Other Than Honorable conditions (OTH) discharge you may be deprived of virtually all veterans benefits based on your current period of service, and that you may expect to encounter substantial prejudice in civilian life in situations wherein the type of service rendered in any branch of the Armed Forces or the character of the discharge therein may have a bearing.

Your separation physical examination, on 22 October 1999, and self-reported medical history again both noted no psychiatric or neurologic issues, symptoms, history, or counseling. You specifically stated you were “In Good Health” on your medical history form. Ultimately, on 28 October 1999, you were separated from the Navy in lieu of a trial by court-martial with an OTH discharge characterization and were assigned an RE-4 reentry code.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Hagel, Kurta, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and contentions that: (a) on active duty you were suffering from unreported mental health issues due to physical violence by your biological father, PTSD, dental infections, and unreported disabilities prior to enlistment, (b) shortly before enlisting, you were in special education classes as a child for children with emotional and behavioral issues, and (c) there were a lot of problems with your enlistment and you tried to explain this to a psychiatrist during basic training at Recruit Training Command. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 14 July 2025. As part of the Board’s review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition or any symptoms incurred by a mental health condition while in military service. He did not submit any medical/mental health evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and any mental health condition or PTSD.

The Ph.D. concluded, “it is my clinical opinion that there is insufficient evidence of a mental health condition (PTSD) that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition.”

Following a review of your AO rebuttal submission, the Ph.D. did not change or otherwise modify their original AO.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board 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. However, the Board concluded that there was no convincing evidence of any nexus between any potential mental health conditions and/or related symptoms and your misconduct and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also 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.

The Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Sailor’s eligibility for enlistment. The Board determined that you had a legal, moral, and ethical obligation to remain truthful on your enlistment paperwork. The Board concluded that had you properly and fully disclosed the extent of your pre-service mental health history, behavioral challenges, and/or disabilities, there was a likely chance you would have been disqualified from enlisting in the Navy.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The simple fact remains is that you left the Navy while you were

still contractually obligated to serve and you went into a UA status without any legal justification or excuse for 115 days.

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 in 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,

12/17/2025

