



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

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Docket No. 3779-25  
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 your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 January 2026. 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta 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 an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You originally enlisted in the U.S. Navy and began a period of active duty service on 13 December 1982. Your pre-enlistment physical examination, on 27 March 1982, and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms.

You disclosed pre-service marijuana use on your enlistment application. On 13 December 1982, you signed and acknowledged the “USN Drug Abuse Statement of Understanding.”

2. On 12 December 1986, you reenlisted in the U.S. Navy. Your reenlistment physical examination and self-reported medical history both noted no psychiatric or neurologic issues, conditions, or symptoms.

3. On 16 July 1987, you received non-judicial punishment (NJP) for failing to obey a lawful Order for cheating on a test. You did not appeal your NJP. On 20 July 1987, you were dropped from your guaranteed/assigned training (EN “C” School) for non-academic reasons. On 16 September 1987, you reported for duty on board the ██████████  
██████████

4. On 31 October 1988 you commenced an unauthorized absence (UA) terminated on 14 November 1988. While in a UA status, you missed the movement of your ship. Upon your return to military control, you underwent a urinalysis test. On 18 November 1988, you received NJP for your 14-day UA and for missing movement. You did not appeal your NJP.

5. On 21 November 1988 your command issued you a “Page 13” counseling sheet (Page 13) documenting your disregard for Navy Regulations and authority. The Page 13 advised you that any further deficiencies in performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 23 November 1988, a Navy Drug Screening Laboratory message indicated you tested positive for amphetamine/methamphetamine.

6. On 27 November 1988, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. On 28 November 1988, you waived your rights to consult with counsel and to request a hearing before an administrative separation board.

7. In the interim, on 29 November 1988, your command vacated and enforced the suspended portion of your 18 November 1988 NJP due to your continuing misconduct.

8. On 30 November 1988, your separation physical examination and self-reported medical history noted no psychiatric or neurologic issues, conditions, or symptoms. On 2 December 1988, you commenced a period of UA from which you never returned to military control. Ultimately, on 6 January 1989, while you were still UA, you were separated from the Navy for misconduct with an under Other Than Honorable conditions (OTH) discharge characterization and assigned an RE-4 reentry code.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contentions that your misconduct should be mitigated, it observed that you did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the

finding that you committed the misconduct that formed the basis of your administrative separation and were properly separated with an OTH characterization of service.

Because you raised the issue of mental health, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 4 August 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

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

Petitioner contended he accidentally missed ship's movement after a night of celebration, which contributed to harassment and ostracism from his command. He claimed this harassment contributed to a mental health condition and resulted in problematic alcohol use and unintentional drug ingestion.

There is no evidence that he was diagnosed with a mental health condition in military service. He has provided no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. While UA could be considered a behavioral indicator of a mental health condition, it is difficult to attribute the Petitioner's misconduct to a mental health condition, given that he denies having engaged in the misconduct and claims that he was harshly treated for minor mistakes. There is some inconsistency between his current report and his service record that raises doubt regarding the reliability of his recall.

The Ph.D. concluded, "it is my considered clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

The Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Kurta Memo. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact you provided no medical evidence in support of your claim. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. 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.

In addition to applying liberal consideration to your claimed mental health condition and its potential effect upon your conduct in accordance with the Kurta Memo, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in

the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, the totality of your service, to include service highlights, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your post-service record of accomplishments, your service to your community, the character references you provided for review, your current mental health issues, the negative effect you experienced from your OTH discharge, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. Specifically, the Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Moreover, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice.

Accordingly, given the totality of the circumstances, the Board determined 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,

1/28/2026

