



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

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Docket No. 3859-25
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 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 an advisory opinion (AO) furnished by qualified mental health provider and your AO rebuttal submission.

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 enlisted in the U.S. Navy and began a period of active duty service on 27 August 1991. Your pre-enlistment physical examination, on 11 April 1991, and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms. As part of your enlistment application you expressly denied any/all pre-service criminal activity.
2. On 28 August 1991, your command issued you a "Page 13" counseling warning (Page 13). The Page 13 informed you that you were being retained in the Navy despite your defective

enlistment and induction due to fraudulent entry into naval service as evidenced by your failure to disclose your pre-service civil involvement involving two separate counts of breaking and entering. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in processing for administrative separation. On 28 November 1992, you reported for duty on board the ██████████ (██████████) in ██████████, ██████████.

3. On or about 6 September 1994, civilian authorities arrested and charged you with: (a) statutory burglary, (b) grand larceny, and (c) possession of burglarious tools. On 15 February 1995, pursuant to your guilty pleas, you were convicted in the Circuit Court, Criminal Division, ██████████, ██████████ of: (a) statutory burglary, (b) grand larceny, and (c) possession of burglarious tools.

4. On 6 March 1995, your command notified you of administrative separation proceedings by reason of misconduct due to a civilian conviction and commission of a serious offense. You elected your rights to consult with counsel and to request a hearing before an administrative separation board (Adsep Board).

5. On 3 April 1995, an Adsep Board convened in your case. At the Adsep Board, you were represented by counsel and you provided a sworn statement. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously concluded that you committed the misconduct as outlined in the notification. The Adsep Board members then unanimously recommended to the Separation Authority (SA) that you be separated with an under Other Than Honorable conditions (OTH) discharge characterization but also recommended the OTH separation should be suspended for twenty-four months.

6. However, on 1 June 1995, the SA approved and directed your discharge for misconduct with an OTH characterization of service. Ultimately, on 22 June 1995 you were separated from the Navy for misconduct with an OTH discharge characterization, and were 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 civil conviction. While the Board carefully considered your contentions for mitigation of your conduct, the Board observed that you do 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 contend that PTSD or another mental health condition affected your discharge, the Board also considered the AO. A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 31 July 2025. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition in service. Temporally remote to his military service, a VA clinician has diagnosed and provided treatment for PTSD that is attributed to military service. Unfortunately, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service behavior that appears to have continued in service.

The Ph.D. concluded, “it is my considered clinical opinion that there is post-service evidence from a VA clinician of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD.”

In response to the AO, you provided additional evidence in support of your application. Following a review of your AO rebuttal, the Ph.D. did not change or otherwise modify their AO.

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 Hagel Memo. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your post-discharge diagnosis by the Department of Veterans Affairs (VA). However, 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 agreed with the AO that your in-service misconduct appears to be a continuation of your pre-service behavior. 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, the negative impact your discharge characterization has had on your life, 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, 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 considered the nature of your civil conviction and the negative service discrediting effect it likely had on the Navy and your command. The Board also 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 deficiencies¹ but chose to continue to commit misconduct; which led to your OTH discharge. Further, 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 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,

1/28/2026

A large black rectangular redaction box covering the signature area. A small horizontal line is visible on the right side of the box.

¹ When you were retained after fraudulently enlisting.