



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

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Docket No. 3869-25
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 enlisted in the U.S. Navy and began a period of active duty service on 9 December 2002. Your enlistment physical examination, on 14 August 2002, and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms. However, you reported pre-service marijuana use.

2. On 19 October 2005, you commenced an unauthorized absence (UA) when you failed to report to your next command as directed in your orders. Your UA terminated after approximately 897 days with your arrest by the ██████████ State Police on 3 April 2008. On 7 April 2008, you were returned to military control onboard the Navy Absentee Collection and Information Center, ██████████.

3. Upon your return, your command notified you of administrative separation proceedings by reason of misconduct due to the commission of a serious offense. You waived your rights to consult with counsel and to elect a hearing before an administrative separation board. Ultimately, on 16 May 2008, 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 regarding your injury and drug addiction, the Board noted 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 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 4 August 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns during military service, which may have contributed to the circumstances of his separation...Petitioner contended he incurred a substance use disorder after a physical training injury resulted in a broken nose. He claimed that the shame of his addiction contributed to his UA.

There is no evidence that he was diagnosed with a mental health condition in military service. He has provided medical evidence of a substance use disorder, that he claims onset during military service. There is no evidence of another mental health condition. While there is evidence of injury that may have contributed to problematic substance use, the Petitioner also had a history of pre-service substance use. It is difficult to attribute chronic and extended UA to a mental health condition or substance use disorder.

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 diagnosis of a mental health condition. 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, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your post-service struggles with addiction, your post-service record of accomplishments, your service to your community, the character references you provided for review, your remorse, 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. In particular, the Board noted that the UA lasted well over two years and was terminated only when you were apprehended. These aggravating factors increased the severity of your misconduct and therefore established a higher burden to justify equitable relief which you did not satisfy. The Board also found that you already benefitted from extremely lenient treatment, as you were administratively processed for separation without being punished, either by non-judicial punishment or court-martial, for your misconduct. 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

