



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

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Docket No. 4199-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 9 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 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 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.

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 Navy and began a period of active duty on 25 July 2002.
2. Between May 2003 and April 2004, you were subject to nonjudicial punishment (NJP) on three occasions for violations of the Uniform Code of Military Justice (UCMJ), that included Article 92, dereliction of duty, after which you were issued administrative counseling warning you that continued misconduct could result in administrative separation, Article 107, for making

a false official statement, and Article 134, for breaking restriction which had been imposed as punishment during your first NJP, Article 86, for an unauthorized absence, and Article 92, for dereliction of duty and failure to obey an order or regulation.

3. Although the notification and processing documents for your administrative separation were not retained in your official military personnel file (OMPF), Commander, Navy Region Southeast, approved your General (Under Honorable Conditions) (GEN) discharge, by reason of misconduct, due to a pattern of misconduct, with a separation code of "HKA;" reflecting that you waived your right to a hearing before an administrative separation board.

4. You previously applied to the Naval Discharge Review Board (NDRB) contending that your discharge was inequitable because your chain of command never supported you. You denied lying about having alcohol in your room, an offense which you state was committed by your roommate, and you also contended that you were never given an opportunity for rehabilitation. The NDRB considered your request on 11 August 2011 and denied relief, noting that there was no evidence in the record to support that you needed rehabilitation treatment.

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 mental health struggles, the Board noted you did not deny committing 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 a GEN characterization of service.

Because you contend that 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 while in military service or that he suffered from any symptoms incurred by a mental health condition. He did not cite any mental health conditions, or symptoms associated with PTSD during his separation proceedings or NDRB in 2010. Furthermore, he did not disclose any PTSD symptoms/alcohol misuse during his enlistment screenings. He submitted one psychological evaluation noting a nexus between his in-service misconduct and preexisting PTSD that was "worsened by service." Making a false official statement and repetitive infractions of failing to obey orders are not typical behaviors caused by symptoms of PTSD. His extensive UA that occurred after two prior NJP's also exceeds that of what would be expected to have been caused by PTSD symptoms. 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 sufficient evidence of a post-service diagnosis of PTSD. There is insufficient evidence to attribute his misconduct to a mental health condition (PTSD)."

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-service diagnosis of PTSD. 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 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 Hagel 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 pre-service history of mental health issues, 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, 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 GEN 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. Further, the Board found that you already received a large measure of clemency when the Navy separated you with a GEN characterization of service despite your extensive record of misconduct that would normally warrant an Other Than Honorable discharge. Finally, the Board believed that it would be unjust to characterize your 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 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 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,

1/28/2026

