



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

██████████
Docket No. 4280-25

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 you did not file your application 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 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 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). 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 Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined your personal appearance was not necessary and considered your case based on evidence of record.

You previously applied to the Board seeking to change your reentry code and were denied on 17 July 2007. The Board concluded that the factors of your youth and desire to reenlist were insufficient to warrant a change of your reenlistment code because of the seriousness of your misconduct which resulted in five nonjudicial punishments (NJPs). You then applied to the Naval Discharge Review Board (NDRB) seeking to enhance employment opportunities. You contended that your discharge was inequitable because of alleged improper conduct that you believe occurred during your NJP proceedings. You also submitted evidence for consideration

of post-service clemency. Your request was considered on 10 August 2010 and was denied. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

After careful review, the Board reached the following conclusions and denied your current 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 contention for mitigation, the Board noted you now 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 for misconduct with an OTH characterization of service.

Because you contend that TBI or a 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 primary mental health condition during his military service or that he suffered from any symptoms incurred by a mental health condition. There is evidence that he was diagnosed with either Adjustment Disorder or Personality Disorder in 2001. An Adjustment Disorder is deemed temporary in nature and symptoms are in response to situational stressors that are expected to resolve. There is one medical record that suggests a possible concussion with no loss of consciousness (July 2001); however, there is no indication that he followed-up – indicating there was no worsening of symptoms. He submitted post-service evidence of VA diagnosed Generalized Anxiety Disorder and TBI that are temporally remote to service. The nature and pervasiveness of his misconduct (particularly that of threatening to kill people and larceny) are not typical behaviors caused by either TBI or a mental health condition; they were more likely the result of characterological issues such as that of a Personality Disorder.

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an inpatient hospitalization. A personality disorder diagnosis is preexisting to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. 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 post-service diagnoses of Generalized Anxiety and TBI. There is evidence of in-service diagnoses of Adjustment Disorder and Personality Disorder. There is insufficient evidence to attribute his misconduct to a mental health condition or TBI."

The Board applied liberal consideration to your claim that you suffered from TBI and a mental health condition, and to the effect that these conditions 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 TBI or a mental health condition, other than a personality or adjustment disorder, that may be attributed to military service. This conclusion is supported by the AO and the fact your medical evidence is temporally remote to your service. 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, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your current service connected disabilities, the character reference 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. The Board 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 General (Under Honorable Conditions) (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 noted the nature of your misconduct, which included fraternization with a junior Sailor and larceny from a shipmate, was the type to negatively affect the good order and discipline, along with the morale, of your unit. Additionally, the Board found that you already received a large measure of clemency when your command assigned you 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 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. In their opinion, it would also create an unwarranted and inaccurate assessment of your period of service that could potentially undermine the integrity of the Navy's personnel system. 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,

2/18/2026

