



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

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Docket No. 4335-25
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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with. A three-member panel of the Board, sitting in executive session, considered your application on 6 February 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 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 15 September 1992. Your pre-enlistment physical examination, on 9 December 1991, and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms. Following the completion of initial recruit training, you reported for duty on board █
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2. On 3 March 1994, you were convicted at a Summary Court-Martial (SCM) of: (a) failing

to obey a lawful order or regulation, (b) insubordinate conduct, and (c) assault. The SCM Officer sentenced you to confinement for thirty (30) days, and a reduction in rank to the lowest enlisted paygrade (E-1). On 13 March 1994, the Convening Authority approved the SCM sentence.

3. On 30 March 1994, you underwent a mental health evaluation. The Medical Officer found you fit for duty and you denied any symptoms consistent with a formal mental health diagnosis.

4. On 20 March 1995, you received non-judicial punishment (NJP) for: (a) failing to obey a lawful order or regulation, and (b) resisting arrest/apprehension. You did not appeal your NJP.

5. Subsequent to your NJP, your command notified you of administrative separation proceedings by reason of misconduct. Your separation physical examination, on 8 May 1995, noted no psychiatric or neurologic issues, history, or symptoms. On 22 May 1995, your CAAC evaluation indicated you to be an alcohol abuser and the examiner recommended you to attend Level II rehabilitation treatment. On 18 May 1995, the Separation Authority approved and directed your discharge for misconduct with an under Other Than Honorable conditions (OTH) characterization of service. Ultimately, on 9 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 record of misconduct. While the Board carefully considered your contention for mitigation, the Board noted 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 for misconduct with an OTH characterization of service.

Because you raised the issue of mental health, the Board requested an AO. A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO dated 7 August 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His alcohol use disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. He did not receive another formal mental health diagnosis in service and has provided no evidence of a post-service mental health diagnosis. His in-service misconduct appears to be consistent with an alcohol use disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service.

The Ph.D. concluded, “it is my considered clinical opinion that there is insufficient evidence of a mental health condition experienced in military service, other than alcohol use disorder. There is insufficient evidence that his misconduct may be attributed to a mental health condition, other than alcohol use disorder.”

In response to the AO, you provided additional evidence in support of your application. After reviewing your rebuttal evidence, the AO remained unchanged.

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, other than an alcohol use disorder, 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, the 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 contentions of mistreatment and mental health issues, 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. 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 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. The Board also 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 General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. Based on the same rationale, the Board also determined that your reason for separation remains appropriate.

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,

2/18/2026

