



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

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Docket No. 4651-25
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 27 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 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). Because you did not submit any new medical evidence, the Board considered the advisory opinion (AO) issued as part of your previous application.

The Board again 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 this Board and were granted partial relief on 21 October 2024. In their decision, the Board granted you an upgrade of your characterization of service to Honorable on the basis of liberal consideration of your mental health condition. However, despite the application of liberal consideration, the Board determined that your narrative reason for separation, separation code, and reentry code should remain unchanged. The summary of your

final period of active duty service remains substantially unchanged from that addressed in the Board's previous decision.

In your application to this Board, you express a desire to change your reason for separation to Secretarial Authority and correct your sea service data. You contend that:

1. You appreciate the upgrade to your characterization of service but you believe it was unjust, if not legally impossible, to leave your narrative reason for separation unchanged due to your original discharge having been a punitive discharge adjudged by a court-martial.
2. Your record of trial reflects insufficient providence inquiry into your pleas of guilty and lack of inquiry into your mental capacity.
3. You were not informed of your Fifth Amendment rights when responding to the president of your court-martial.
4. The Kurta memo supports removal of reference to your court-martial in your discharge record.
5. The narrative reason of separation cannot legally exist alongside an Honorable characterization of service because a court-martial could not adjudge an Honorable discharge.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately discharged with a Bad Conduct Discharge (BCD) based on your court-martial conviction and sentence. While the Board carefully considered your contentions of error, the Board noted you were represented by competent legal counsel and convicted according to your pleas of guilt. Further, the Board also found no evidence of error after completion of appellate processing of your conviction. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

With respect to your sea service dates, the Board found insufficient evidence to substantiate the precise dates that you were at sea. Therefore, absent substantiate evidence to the contrary, the Board determined the presumption of regularity applies to your sea service dates.

The Board again 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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service and determined a nexus exists to your misconduct. In weighing the mitigation of your mental health condition against your misconduct, the Board affirmed its previous decision that an upgrade to your characterization of service to Honorable is warranted. However, the Board found that the weight of the mitigation evidence of your mental health condition did not sufficiently outweigh your misconduct to support changing your reason for separation. In making this finding, as discussed in its previous decision letter, the Board was not persuaded by your arguments of mental incompetence and found sufficient evidence exists to

find that you were mentally responsible for your conduct. Additionally, the Board took into consideration that upgrading a characterization of service from BCD to Honorable amounts to significant clemency. In the Board's opinion, this level of clemency was sufficient to address any injustice in your record resulting from your mental health issues at the time and the mitigation factors under the Wilkie memo. Ultimately, the Board considered that your record of misconduct during your last enlistment period was significant and involved three special court-martial convictions; therefore, even taking into consideration all the mitigation factors in your case, the Board found that sufficient relief was granted with its original grant.

Finally, the Board disagrees with your assertion that an upgrade of your characterization necessarily requires that your narrative reason for separation be changed. While the rules for court-martial (RCM) limits punitive separations to dismissals, dishonorable discharges, and BCDs, the Board determined that these rules do not apply to this Board under its statutory authority to grant relief to remove an injustice. The Board acknowledged that it would not normally create an administrative inconsistency within a record when granting relief but determined it was in the interests of justice to do so in your case and considered that the inconsistency was created to benefit you. In the end, the Board concluded their grant of relief, while perhaps inconsistent with the RCM, was within with their statutory and discretionary authority and remains appropriate in order to properly address the injustice in your record.

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,

3/23/2026

