



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

█  
Docket No. 4937-25  
Ref: Signature Date

█  
█  
█  
█

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 13 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 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 1 March 2000. Your pre-enlistment physical examination, on 11 August 1999, and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms. As part of your enlistment application you expressly denied: (a) ever being treated for a mental condition, (b) being a patient in any type of hospital, (c) being consulted/treated by clinic, physicians w/in last 5 years for other than minor illnesses – on your self-reported medical history. On 29 June 2001 you reported for duty on board █

2. On 19 October 2001, your commanding officer (CO) issued you a non-punitive letter of caution (NPLOC) due to your numerous traffic and/or moving violations. Your CO ordered you to report any additional traffic violations to your chain of command within a twelve (12) hour period. The NPLOC advised you that any additional moving violations would result in the removal of your base driving privileges.

3. On 30 October 2001, █ suspended your drivers license. On 5 November 2001, your command revoked your base driving privileges. On 15 November 2001, the SSCC ordered you to surrender your car keys to your leading crew chief (LCC) and also revoked your driving privileges. You acknowledged the judge's order; however, members of your chain of command witnessed you subsequently driving your personal vehicle contrary to the judge's order. Additionally, on 18 November 2001, your LCC witnessed you driving your car onto the base.

4. On 20 November 2001, you received non-judicial punishment (NJP) for: (a) three separate specifications of unauthorized absence (UA), and (b) five separate specifications of failing to obey a lawful order. A portion of your punishment was suspended. You appealed your NJP. On the same day, your command issued you a "Page 13" counseling warning (Page 13) documenting your NJP. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and processing for administrative separation.

5. On 30 November 2001, your CO vacated and enforced the suspended portion of your NJP due to your continuing misconduct. On the same day, your CO also recommended to the General Court-Martial Convening Authority (GCMCA) that your NJP appeal should be denied. In his recommendation, your CO noted that, since 15 September 2001 you had received a total of eight (8) traffic citations issued by local law enforcement authorities due to your inappropriate conduct and behavior while operating your privately owned vehicle, to include reckless driving.

6. On 5 December 2001, the GCMCA denied your NJP appeal.

7. On 6 January 2002, civilian authorities in █ arrested and detained you in █ on the charge of aggravated unlicensed operation of a motor vehicle. On 8 January 2002, you were convicted on such charge and sentenced to time served.

8. On 10 January 2002, civilian authorities in █ arrested and charged you for allegedly stealing a motor vehicle. You were initially incarcerated on \$1,500 cash bond and your case was initially docketed for 14 March 2002.

9. In the meantime, on 11 January 2002 your command notified you of administrative separation proceedings by reason of misconduct due to a civilian conviction, misconduct due to a pattern of misconduct, and misconduct due to the commission of a serious offense. On 16 January 2002 you consulted with counsel and elected your right to request a hearing before an administrative separation board (Adsep Board).

10. On 30 January 2002, an Adsep Board convened in your case. At the Adsep Board you were represented by counsel and you provided an unsworn statement. Following the

presentation of evidence and any witness testimony, the Adsep Board members unanimously concluded that you committed the misconduct as outlined in the notification. The Adsep Board members then unanimously recommended to the Separation Authority (SA) that you be separated with an under than honorable conditions (OTH) discharge characterization.

11. On 6 February 2002, the SA approved and directed your discharge for misconduct with an OTH characterization of service. Ultimately, on 15 February 2002, you were separated from the Navy for misconduct with an 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 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 no error exists with your OTH characterization of service.

However, 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 on 15 August 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during military service. Temporally remote to his military service, he has received a mental health condition. There are conflicting opinions regarding whether his mental health condition may have been present during military service. It is possible to consider his driving infractions and disobedience as consistent with symptoms of irritability and grandiosity consistent with Bipolar Disorder. However, it is difficult to consider that Navy medical providers would not have recognized symptoms of Bipolar Disorder in 2001. It is also difficult to consider that an individual may have suffered from Bipolar Disorder for 18 years without mental health treatment, medication, hospitalization, incarceration, or another means of identification or diagnosis. There are inconsistencies between the Petitioner's service record and his current report of his mental health history that raise doubt regarding his candor or the reliability of his recall.

The Ph.D. concluded, "it is my considered clinical opinion that there is some post-service evidence from a civilian psychologist of a mental health condition that may have been present in military service. There is some post-service evidence from a civilian psychologist that the Petitioner's misconduct may be attributed to his 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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the fact your medical evidence is temporally remote to your service and because the Board concurred with the AO that there are inconsistencies in the record that raise doubt regarding your candor or reliability of recall in your case<sup>1</sup>. 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 also, again, questioned the reliability of the medical evidence due to the reliability issues identified 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, your contentions, 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 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, 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 observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 2.33 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 2.50 in conduct (proper military behavior), for a fully Honorable characterization of service. The Board concluded that your misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your cumulative misconduct and further justified your OTH characterization. Further, 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.

---

<sup>1</sup> The Board also noticed the glaring discrepancy in your medical and mental health history. The Board noted that, on your pre-enlistment self-reported medical history form, you denied any and all mental health conditions, history, and treatment. However, during your 2023 VA compensation and pension examination, you disclosed a history of mental health treatment as a child, including being hospitalized twice.

Finally, the Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Sailor's eligibility for enlistment. The Board determined that you had a legal, moral, and ethical obligation to remain truthful on your enlistment paperwork. The Board concluded that had you properly and fully disclosed your pre-service mental health history and treatment on your enlistment application, you likely would have been disqualified from enlisting in the Navy, if it were indeed true. Thus, the Board was reluctant to find any injustice in your case based on evidence of a mental health condition that also supports a finding that you fraudulently enlisted into the Navy.

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 your reason for separation, separation code, and separation authority remains appropriate. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct.

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,

2/22/2026

