



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

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Docket No. 4994-25  
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 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), 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 and your response to the AO.

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.

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 11 December 1981.

2. On 28 November 1983, you received nonjudicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ) that included two specifications under Article 91, for disrespectful language and willful disobedience toward a superior petty officer, and Article 117, for wrongful use of provoking words.

3. On 19 May 1984, you received a second NJP for violating Article 86, UCMJ, due to a 35-minute unauthorized absence (UA), two specifications under Article 91, for disrespectful language toward a senior petty officer, and Article 117, for wrongful use of provoking words.

4. On 17 October 1984, you received a third NJP for additional Article 91 and 117 violations, in addition to violating Article 128 for assaulting a senior petty officer and Article 134 for failure to obey a lawful order. You were administratively counseled that further misconduct could result in administrative separation.

5. In November of 1984, you incurred two periods of UA. This resulted in a fourth NJP, on 6 December 1984, for UCMJ violations, that included four specifications under Article 86 for additional UA periods, Article 90, for failure to obey a lawful order, Article 92, for failure to obey a lawful order, and Article 134, for breaking restriction and for wearing unauthorized uniform insignia.

6. The following day, you were notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct and elected to waive your right to a hearing before an administrative separation board. Your commanding officer recommended your discharge under Other Than Honorable (OTH) conditions and commented that you had a poor attitude and would leave work unless supervised. Commander, Naval Military Personnel Command, approved your discharge and you were so discharged on 25 January 1985.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. You were young and dealing with untreated, undiagnosed, post-traumatic stress disorder (PTSD) and Bipolar Disorder which you believe caused your behavioral problems during military service.

2. You were not offered treatment during your military service and believe that you would have benefited from treatment, and completed your service honorably, because you are now diagnosed and receiving treatment.

3. You would also like to file for veteran benefits.

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 that formed the basis for your administrative separation and OTH discharge. Therefore, the Board determined the

presumption of regularity applies to your administrative separation and no error exists with your record.

Because you contend that PTSD or another mental health condition affected your discharge, the Board also considered the AO, which advised:

There is no evidence that the Petitioner received a diagnosis of a mental health condition during military service. Petitioner has provided evidence of mental health concerns that are temporally remote to military service. Although there is evidence of Petitioner report that his mental health concerns onset during military service, there is insufficient medical evidence to corroborate this claim. It is difficult to attribute his chronic and repetitive in service misconduct to symptoms of PTSD or other mental health concerns, given the time delay from service to symptoms sufficiently interfering as to warrant treatment. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is some post-service evidence of a mental health condition that may be attributed to military service. There is post-service evidence from the Petitioner of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another 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 Hagel and Kurta Memos. 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 medical evidence. 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 and Kurta Memos, 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 desire for an upgrade to your characterization of service, your contentions, the totality of your service, your need for veterans' benefits, 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 mental health issues, your advanced age, 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. While the Board considered your age and possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from those factors. 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. 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.

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

