



Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

c. Petitioner enlisted in the Navy and began a period of active service on 29 April 1997. After a period of continuous Honorable service, Petitioner immediately reenlisted on 2 March 2001 and commenced his final period of active duty.

d. On 13 August 2003, Petitioner received non-judicial punishment (NJP) for four specifications of unauthorized absence (UA).

e. On 15 December 2003, Petitioner received NJP for three specifications of UA.

f. On 8 January 1984, Petitioner was convicted in a civil court in [REDACTED] of driving under the influence (DUI).

g. On 13 February 2004, Petitioner received NJP for two specifications of UA.

h. Petitioner's administrative separation documents are not in his official military personnel file (OMPF). The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on Petitioner's DD Form 214, he was separated, on 11 March 2004, with an "Under Other Than Honorable Conditions" (OTH) characterization of service, narrative reason for separation of "Misconduct," his reentry code of "RE-4," and separation code of "HKB," which corresponds to misconduct – convicted by civil authorities. Petitioner's DD Form 214 did not annotate his period of continuous Honorable service from 29 April 1997 to 1 March 2001.

f. Petitioner contends he desires an upgrade so he can join the American Legion and buy back his military time toward retirement with the Post Office, where he has worked for five-and-a-half years. He contends that marital and financial stress led to mental and physical exhaustion which led to his misconduct and OTH discharge. Petitioner also checked the "PTSD" and "Other Mental Health" box on his application. In response to the Board's 28 May 2025 letter requesting evidence in support of his claim, Petitioner responded with a letter indicating he had not been formally diagnosed by a doctor and citing an experience that he believes contributed to his trauma. In support of his application, Petitioner submitted a supplemental personal statement, an advocacy letter, and a professional letter of recommendation.

g. As part of the Board's review, the Board considered enclosure (4). The AO states in pertinent part:

Petitioner contends he incurred mental health issues during military service, which may have contributed to the circumstances of his separation from service.

There is no evidence that the Petitioner was diagnosed with a mental health condition or suffered from any symptoms incurred by a mental health condition while in military service. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and a mental health condition.

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The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief. Specifically, as previously discussed, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous Honorable service and requires correction.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's discharge and OTH characterization of service for misconduct due to civil conviction.

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct. While the Board carefully considered Petitioner's contention for mitigation, the Board noted Petitioner did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that Petitioner committed the misconduct that formed the basis of his administrative separation and no error exists with his OTH characterization of service.

The Board also applied liberal consideration to Petitioner's claim that he suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which Petitioner was discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact Petitioner provided no medical evidence in support of his claim. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which Petitioner was discharged was excused or mitigated by a 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 Petitioner's misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying liberal consideration to Petitioner's claimed mental health condition and its potential effect upon his 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, Petitioner's contentions, the totality of Petitioner's service, Petitioner's need for veterans' benefits, the non-violent nature of Petitioner's misconduct, Petitioner's relative youth and immaturity at the time of his misconduct, the negative effect Petitioner's discharge has had on his life, Petitioner's rehabilitation efforts, Petitioner's post-service record of accomplishments, Petitioner's candor and remorse,

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Petitioner's service to his community, Petitioner's claimed mental health issues, the character references Petitioner provided for review, and the passage of time since Petitioner's 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 making this finding, the Board considered the seriousness of Petitioner's misconduct and the likely negative effect his conduct had on the good order and discipline of his unit, as well as the potentially discrediting effect it had on the Navy. Additionally, the Board noted that Petitioner was given multiple opportunities to address his conduct issues, but he continued to commit misconduct, which ultimately led to his administrative discharge and OTH characterization of service. Finally, the Board believed that it would be unjust to characterize Petitioner's less than honorable service in the same manner as the service of the thousands of service members who, unlike Petitioner, 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 Petitioner's request for a discharge upgrade does not merit relief.

#### RECOMMENDATION

That Petitioner be issued a correction to DD Form 214 (DD Form 215) correcting Block 18, "Remarks" to indicate:

"CONTINUOUS HONORABLE ACTIVE SERVICE FROM 970429 UNTIL 010301."

That no further changes be made to Petitioner's record.

That a copy of this report of proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.
5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/23/2026

