



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

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Docket No. 5759-25
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 the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 12 December 2025. 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, applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD)/mental health condition (MHC) (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). Additionally, the Board considered an advisory opinion (AO) from a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 23 July 1995. On 25 February 1997, you received non-judicial punishment (NJP) for disrespect towards a petty officer, dereliction of duty, and assault. On 30 July 1997, you received your second NJP for unauthorized absence (UA), missing the ship's movement, insubordinate conduct, and failure to obey a lawful order or regulation.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, 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 your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 4 August 1997, with an “Under Other Than Honorable Conditions (OTH)” characterization of service, your narrative reason for separation is “Misconduct Due to Commission of a Serious Offense,” your reentry code is “RE-4,” and your separation code is “HKQ,” which corresponds to misconduct – commission of a serious offense, admin discharge board required but waived.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge and change the narrative reason for your discharge. You contend that: (1) you received an OTH discharge for an offense that occurred during a period of severe depression and anxiety; which was not diagnosed or treated at the time, (2) since your discharge, you have received proper treatment and significantly improved, and (3) your discharge was unjust and does not reflect your overall service and current state of well-being. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and copies of medical records from the Department of Veterans Affairs (VA).

As part of the Board’s review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 16 September 2025. The AO stated in pertinent part:

There is no evidence that she was diagnosed with PTSD or another mental health condition in military service. Temporally remote to her military service, she has received diagnoses of PTSD and a depressive disorder from VA providers. Unfortunately, it is difficult to attribute her misconduct to undiagnosed mental health conditions, particularly given the limited available records. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to her misconduct) may aid in rendering an alternate opinion.

The AO concluded, “It is my clinical opinion that there is some post-service evidence from the VA of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence that her misconduct may be attributed to PTSD or another mental health condition.”

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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.

Additionally, the Board concurred with the AO that there is insufficient evidence that your 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 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 your medical evidence is temporally remote to your service. 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. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions. 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.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

1/16/2026

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Executive Director

Signed by: ■