



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

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Docket No. 5829-25
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 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 6 March 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), 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 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 Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the 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 originally enlisted in the U.S. Navy and began a period of active duty service on or about 14 March 1983.
2. On or about 15 July 2011, you were arrested by federal civilian authorities and charged with: (a) conspiracy to advertise the distribution of child pornography, and (b) conspiracy to distribute child pornography. A Federal Magistrate ordered you to be held without bond.
3. On 2 August 2011, your commanding officer (CO) recommended to higher authority that you be detached for cause (DFC) from your current billet as the Command Master Chief. The CO noted your criminal complaint alleging you were involved in a conspiracy to distribute child pornography. The CO included in his recommendation, in pertinent part, that a key feature of your child pornography network that you were alleged to have participated in required an individual to first contribute child pornography before they would be granted access to the network's pages. The CO further noted that you were alleged to have contributed content on 43 different occasions.
4. Your performance evaluation for the period ending 8 September 2011 did not recommend you for retention in the naval service. You received an overall trait average of 2.43 out of a possible 5.0, with a 1.0 grade in character, and 2.0 grades in professionalism and deckplate leadership, respectively. Your performance evaluation also noted that a command investigation reviewed your official travel and revealed that, at least on one occasion and as many as three, you were found to have misappropriated government funds by claiming official travel status when you were exercising personal travel.
5. On 18 October 2011, Commander, Navy Personnel Command approved your DFC due to misconduct.
6. On 31 October 2011, your command notified you of administrative separation proceedings by reason of misconduct due to the commission of a serious offense, as evidenced by your participation in a child pornography network for conspiring to distribute child pornography. On 3 November 2011 you consulted with counsel and waived your rights to consult with counsel, submit written rebuttal statements, and to request a hearing before an administrative separation board. However, you elected to transfer to the Fleet Reserve. You understood that if you waived a board, a reduction to a reduced paygrade upon transfer may be directed if you were being processed for misconduct.
7. On 3 November 2011, you submitted a formal written request a waiver of administrative separation processing in order to transfer to the Fleet Reserve. With your request, you specifically understood that: (a) SECNAV may approve your transfer in a reduced paygrade, (b) your request did not preclude or suspend command disciplinary action, and (c) the approval of your request may result in an under than honorable conditions (OTH) discharge characterization.
8. On 9 November 2011, your CO forwarded your request to Commander, Navy Personnel

Command (CNPC) recommending approval of your transfer to the Fleet Reserve with an OTH characterization of service at the reduced rank of Senior Chief (E-8).

9. On 1 December 2011, you entered into a guilty plea agreement with federal authorities where you agreed to plead guilty to certain charges in exchange for a dismissal of the remaining counts of your indictment. You provided to the Court a “factual basis for plea of guilty,” (Factual Basis) that outlined in detail your participation in an Internet-based bulletin board to facilitate the distribution of child pornography between its members. You represented to the Court that you agreed to the accuracy of each and every fact submitted in the Factual Basis.

10. On 2 April 2012, the Chief of Naval Personnel (CNP) recommended to the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASNMRA) that you be transferred to the Fleet Reserve in a reduced paygrade of E-8 with an OTH characterization of service. The CNP noted in their recommendation, in pertinent part:

Despite his more than 28 years of military service, this action is appropriate due to the egregious nature of these allegations, which constitute a significant departure from the behavior expected of a Master Chief Petty Officer.

11. On 20 April 2012 ASNMRA approved and directed your transfer to the Fleet Reserve in a reduced paygrade of E-8 with an OTH discharge characterization. Ultimately, on 31 May 2012, you were separated from the Navy with sufficient service for retirement with an OTH characterization of service and were assigned an RE-4 reentry code. On 1 June 2012, you formally transferred to the Fleet Reserve. On 31 May 2014, you transferred from the Fleet Reserve to the Retired List.

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 arrest for child pornography related offenses. While the Board carefully considered your contention that you did not commit the offenses and only signed the plea agreement due to a mental health condition, the Board determined, regardless of whether you intended to sign the plea agreement, your guilty plea to the court contradicts your claim of innocence. First, 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. Second, the Board noted that a plea of guilty is the strongest form of proof known to the law. Based upon your plea of guilty alone and without receiving any evidence in the case, a Court can find you guilty of the offenses to which you pleaded guilty. If any errors or improprieties had occurred at any stage in your case and voluntary guilty plea, the would have concluded as such and ordered the appropriate relief. However, no substantive, evidentiary, or procedural defects were identified in your case. In the end, the Board concluded that any such suggestion or argument that you did not commit the offense(s) to which you pleaded guilty and/or that you signed such a plea due to PTSD, was not persuasive. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

However, because you raised the issue of mental health, the Board also requested an AO. A licensed clinical psychologist (Ph.D.), reviewed your contentions and the available records and issued an AO on 26 September 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no in-service evidence that the Petitioner was diagnosed with a mental health condition. The Petitioner has provided some limited in-service evidence that he may have reported some symptoms consistent with PTSD while confined after his guilty plea. However, there is no indication that these symptoms were sufficiently severe as to warrant further evaluation or treatment prior to separation. It is difficult to attribute child pornography behavior to PTSD or another mental health condition, and the Petitioner has made the claim that he is innocent of the criminal charges. The Petitioner has also made the claim that any purported sexual indiscretion in which he may have engaged was in response to adverse side effects of an anti-malarial drug prescribed during a Somalia deployment. However, it is difficult to attribute his misconduct to side effects of a drug prescribed many years previously when he achieved such high military achievement as a command master chief in the intervening years.

The Ph.D. concluded, "it is my considered clinical opinion that there is some in-service evidence from the Petitioner that he may have experienced symptoms of PTSD or another mental health condition in 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 the evidence you provided. 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, the negative effect your discharge has had on your life, your mental health issues and incapacitation, your advanced age, the supporting evidence you provided for review, 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 concluded you were extremely fortunate the Navy allowed you to transfer to the Fleet Reserve with your military pension intact. The Board concluded the Navy displayed extraordinary leniency not normally afforded to service members similarly situated with criminal offenses involving children/minors and, based on this fact alone, you already received substantial clemency from the Navy. The Board determined that your civilian criminal offense(s) involving child pornography clearly demonstrated a complete disregard for military authority and regulations. Your conduct displayed a pattern of misconduct that was harmful to the Navy's mission and negatively affected the good order and discipline of your command. Therefore, even taking into consideration your years of service and current medical condition, the Board found your child pornography related misconduct while on active duty outweighed the mitigation evidence offered.

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,

3/20/2026

