



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 6124-25
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 limitations 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 13 January 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 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). The Board also considered an advisory opinion (AO) furnished by a qualified mental health professional on 19 November 2025. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy and commenced a period of active duty on 16 January 1991. On 17 May 1991, you received non-judicial punishment (NJP) for two specifications of failure to go at time prescribe to your appointed place of duty, disobeying a lawful order by consuming alcohol in a duty status, and incapacitated for the performance of duty. On 5 September 1991, you received NJP for unauthorized absence (UA) that lasted 18 days. On 27 September 1991, you received a drug abuse evaluation that determined you were mentally stable, dependent on alcohol, not drug dependent, and recommended to attend Level III inpatient treatment program. On 25 October 1991, a summary court-martial (SCM) convicted you of 21 specifications of failure to go to your appointed place of duty, UA for four days, two specifications of disrespect

in language toward a non-commissioned officer (NCO), three specifications disobeying a lawful order or regulation, and disorderly conduct. On 16 December 1991, a second SCM convicted you of 20 specifications of failure to go to your appointed place of duty and two specifications of UA totaling six days. On 27 March 1992, a special court-martial (SPCM) convicted you of five days of UA, disobeying a lawful order, and wrongful use of cocaine. Consequently, you were notified of pending administrative separation action by reason of misconduct due to pattern of misconduct, commission of a serious offense, and drug abuse. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. In the meantime, you received an additional NJP for drunk on duty and absence from your appointed place of duty. Ultimately, the SA approved the CO's recommendation for the basis of pattern of misconduct and you were so discharged on 27 July 1992.

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 contentions that you incurred mental health conditions (PTSD) and other mental health conditions during military service, your wife's pregnancy issues worsened your mental health condition, your command denied assistance for your mental health and alcohol issues, and you would like to receive veterans' assistance. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The AO stated in pertinent part:

There is no evidence of a mental health condition that existed during his military service. However, there is evidence of significant alcohol abuse and likely dependence. A significant portion of his misconduct was likely due to alcohol abuse. Administrative records note that he was afforded treatment and either denied problematic behavior and abuse, and/or did not complete programming. He did not submit any medical evidence in support of his claim. 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, "it is my considered clinical opinion that there is insufficient evidence of a mental health condition that existed in service. A significant portion of his misconduct was likely due to alcohol abuse/dependency. There is insufficient evidence to attribute his misconduct to any mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, SCMs, and SPCM, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug related offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also 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, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your service fell well below the minimum standards for a General (Under Honorable Conditions) or Honorable characterization of service.

Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to a 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 you provided no medical evidence in support of your claim. 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 recognized the same concerns raised in the AO. 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.

Finally, 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.

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. 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. 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,

1/21/2026

