



1. You enlisted in the Navy and commenced active duty on 30 June 2004.
2. On 24 August 2005, you were found guilty at Summary Court Martial (SCM) of unauthorized absence (UA), false official statement, and carnal knowledge.
3. On 29 September 2005, you received non-judicial punishment (NJP) for wrongful use of a controlled substance.
4. Unfortunately, some of 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 in the separation authority's approval of your administrative separation and your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 9 November 2005, with an "Under Other Than Honorable Conditions (OTH)" characterization of service, narrative reason for separation of "Misconduct (Drug Abuse)," reentry code of "RE-4," and separation code of "HKK," which corresponds to misconduct - drug abuse, admin discharge board required but waived.

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 contentions of error and denial of due process, the Board noted you did not any evidence, other than your statement, to substantiate your contentions. 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. 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 18 November 2025. The AO stated in pertinent part:

There is no evidence of diagnosis of PTSD or another mental health condition during his military service. The Petitioner has provided no post-service evidence of a mental health condition. It is difficult to attribute his misconduct to mental health symptoms due to PTSD or another mental health condition.

The AO concluded, "it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health condition. There is insufficient evidence to attribute his misconduct 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 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. 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 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 claimed mental health issues, disparate treatment between you and others, 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 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. In addition, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board was not persuaded by your implied contention that you did not commit the offenses for which you were found guilty and determined 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. 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 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 noted you provided no evidence in support of your application. Thus, even taking into consideration your youth and immaturity, the circumstances you faced while you were in Naval service due to your claim of racism and reprisal, and your current need for health care, the Board found that your offenses of carnal knowledge, false official statement, UA, and wrongful use of a controlled substance 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.

The Board thus determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC § 1034. 10 USC § 1034 provides the right to request Secretary of War review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoW

policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a *de novo* review and under 10 USC § 1034(c) the Secretary of War cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of War for Personnel and Readiness (USW(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR; therefore, please also include previously presented documentation that supports your statements.

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,

3/19/2026

