



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

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Docket No. 6473-25  
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 23 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional and your response to the AO.

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.

You enlisted in the U.S. Navy and began a period of active duty on 17 April 1990. On 4 July 1990, you received non-judicial punishment (NJP) for being absent from your appointed place of duty, wrongful previous overindulgence in intoxicating liquor or drugs, and incapacitated for the

proper performance of duties. You were subsequently issued a counseling warning and advised that further deficiencies in your performance and or conduct may result in disciplinary actions and processing for administrative discharge now or in the future. On 18 July 1991, you began a period of unauthorized absence (UA) that ended on 31 July 1991. On 16 August 1991, you received your second NJP the 13 day UA. On 13 September 1991, you were issued a second counseling warning and advised subsequent violations of the UCMJ or conduct resulting from civilian conviction could result in an administrative separation.

On 6 November 1991, you received your third NJP for two specifications of being UA from your appointed place of duty. Consequently, you were notified of administrative separation processing for misconduct pattern of misconduct. After you waived your rights, the Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation and you were so discharged on 20 November 1991.

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 for a discharge upgrade and contentions that you only committed one true infraction, you went AWOL for 13 days to care for your pregnant wife and children whom had serious medical issues at the time, you did not know who to ask for help in the Navy, your Chief subjected you to cruel, racist treatment and comments on a daily basis, your Chief advised you how to gain your separation quicker than a hardship discharge, you both conspired to fraudulently procure your discharge, you both falsified misconduct in furtherance of your scheme, and you were able to be discharge by waiving your rights associated with your administrative separation processing. You further contend that your entire criminal record, which includes seven arrests commencing shortly after you were discharge from the military to the present, is evidence of your mental health and drug abuse issues. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO on 19 November 2025. The Ph.D. stated in pertinent part:

During his military service, the Petitioner was evaluated and reported some mild and temporary mental health symptoms that resolved prior to separation. There is no evidence that he received a formal diagnosis of a mental health condition in military service, and he has provided no post-service evidence of a mental health condition. Unfortunately, it is difficult to attribute the Petitioner's misconduct to mental health concerns, given their transitory appearance after the misconduct and the Petitioner's statement that the charges were false. 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 Ph.D. concluded, “it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health concern that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition.”

In response to the AO, you provided additional evidence in support of your application. After reviewing your rebuttal statement, the AO remained unchanged.

After thorough review, the Board concluded these 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 found that your conduct showed a complete disregard for military authority and regulations. The Board noted that, although one’s service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within this Board’s review, for minimizing the “one-time” isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. However, contrary to your contention, the Board found ample evidence that you were involved in more than “one true infraction.” 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.

Further, the Board concurred with the AO and determined there is insufficient evidence of a diagnosis of PTSD or another mental health concern that may be attributed to military service. 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, the Board considered that you provided no evidence, other than your statement, to substantiate your contention that your administrative separation was not based on actual misconduct. Therefore, the Board determined your chronology of events describing an elaborate

conspiracy between you and your chief to secure your administrative separation to be implausible and unpersuasive. Nonetheless, even if true, the Board determined your participation in the conspiracy scheme to defraud the Navy into administratively separating you is additional evidence that you were properly discharged for pattern of misconduct. Ultimately, under either circumstance, the Board found that your assigned characterization of service remains appropriate.

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,

1/13/2026

