



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

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Docket No. 6600-25
Ref: Signature Date

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Dear ■■■■■■

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 9 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 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).¹

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 enlisted in the Navy and commenced active duty on 7 June 1995. As part of your enlistment processing, you received an enlistment waiver for physical violence and pre-service offenses of battery, petty theft, and resisting arrest without violence.

2. On 6 May 1997, you received non-judicial punishment (NJP) for three specifications of unauthorized absence (UA), disrespect in deportment toward a petty officer, disrespect in language toward a petty officer, failure to obey a lawful order, and two specifications of using

¹ The Board noted you checked the "PTSD" box on your application and mentioned that you were subject to a pattern of discrimination. However, your statement did not discuss any mental health issues and your application did not include any supporting evidence of it. Therefore, the Board did not consider your application under the guidance provided in the Kurta and Hagel memos.

provoking words. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

3. On 10 May 1997, you commenced a period of UA that ended in your surrender on 31 May 1997.

4. On 12 June 1997, you received NJP for breaking restriction and the twenty-one days of UA.

5. 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, narrative reason for separation of "Misconduct due to a pattern of misconduct," reentry code of "RE-4," and separation code of "HKA," which corresponds to misconduct – pattern of misconduct, admin discharge board required but waived.

6. Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 16 June 2000, based on their determination that your discharge was proper as issued.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. A pattern of discrimination created mental stress and PTSD.
2. You have documents recorded in "EOPS" to support your claims of defamation of character and discrimination.
3. You suffered bilateral hearing loss and tinnitus due to your time in the Navy.
4. You worked tirelessly in the heart of the ship to ensure vital messages were relayed swiftly and accurately.
5. Simple tasks, such as engaging in conversation with loved one or enjoying the tranquility of life, has become increasingly difficult due to your auditory condition.

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 contention of mitigation and implied contention that your record of misconduct was based on discrimination rather than misconduct, the Board noted you provided no 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.

The Board also considered the totality of the circumstances to determine whether equitable relief was 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, your need for veterans' benefits, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, the character reference 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 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, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. 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 age and 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 believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice.

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, _____

3/25/2026

