



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

██████████
Docket No. 7137-25
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 30 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) and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider and your response to the AO.

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 Marine Corps and began a period of active duty on 20 July 1971. After a period of continuous Honorable service that included a reenlistment, you were honorably discharged on 6 December 1977.
2. After a break in military service, you reenlisted in the Marine Corps, on 30 July 1979, and commenced a third period of active duty.

3. On 31 October 1979, you began a period of unauthorized absence (UA) that terminated upon your apprehension on 15 December 1979.

4. On 5 January 1980, you began another period of UA which terminate upon your apprehension on 26 April 1980.

5. On 15 May 1980, you were convicted at special court martial of two specifications of violating Uniform Code of Military Justice (UCMJ), Article 86 (UA from your unit from 31 October 1979 through 15 December 1979, and UA from your unit from 5 January 1980 through 26 April 1980). You were sentenced to reduction in rank to E-3 and confinement at hard labor for 45 days.

6. On 19 May 1980, you commenced another period of UA that terminated upon your return on 27 June 1982.

7. The next day, you commenced another period of UA that terminated with your surrender on 5 October 1987.

8. On 22 October 1987, submitted a request for an Other Than Honorable (OTH) discharge in lieu of facing trial by court-martial.

9. In the request to ██████████ for an OTH discharge, your defense counsel noted that you served from 1971 through 1977 and earned the rank of staff sergeant. Your counsel noted that you rejoined the Marine Corps in 1979 and shortly thereafter began experiencing financial and personal problems stemming from your then-wife suddenly leaving. Your counsel stated that after your wife left, you returned to your home in ██████████ and, although you were in a UA status, you were not involved in any trouble with civilian authorities. Your counsel states that you attempted to rectify your UA status in 1982, but after voluntarily returning you again went UA because you were not given clarity on how the situation would resolve. During the most recent period of UA from 1982 through 1987, your counsel stated that your divorce became final, you continued to work in construction and managed your own business, and maintained an unblemished civilian record. Your counsel asserted that your sincere desire was to resolve the entire issue for the sake of yourself and your family.

10. Your request was approved and, on 13 November 1987, you were discharged from the Marine Corps with an OTH characterization of service and a reentry code of RE-4.

In your application to the Board, you request an upgrade to your characterization of service from Other than Honorable to General (under honorable conditions) or Honorable. You assert that:

1. You were grappling with undiagnosed mental health challenges and personal circumstances that diminished your judgment.

2. You served during ██████████ and were assigned to duty in ██████████ where you were a freight transportation clerk whose responsibilities included transporting plans

with deceased and wounded Service members.

3. The circumstances of your wife ██████████ sudden departure from your life during your third period of enlistment also caused significant mental strain.

4. Post-discharge you have experienced personal and professional accomplishments. You remarried your current wife ██████████ with whom you have a daughter and two grandchildren. You started and built a thriving ██████████ business from which you retired after being diagnosed with cancer. You have been in remission for over 14 years and spent your time volunteering in your community by creating wreaths and flower displays to pay at the local veterans' cemetery.

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 and your request for an OTH discharge to escape trial by court-martial. The Board noted you admitted to committing the misconduct that formed the basis of your request administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

Because you raised the issue of mental health, the Board also requested an AO. As part of the Board's review, a qualified mental health provider reviewed your contentions and the available records and issued an AO on 16 December 2025. The AO stated in pertinent part:

There is no evidence that the Petitioner suffered from a primary mental health condition while in military service. It was documented that he was going through severe financial and family problems during his time in service; however, his extensive UA exceeds that which would be expected to have been caused by external stressors alone. He did not submit any medical evidence in support of his claim and his personal statement is not sufficiently detailed to provide a nexus between a mental health condition and his in-service misconduct. Additional records (e.g., active-duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion.

The AO concluded that "Based on the available evidence, it is my clinical opinion that there is insufficient evidence of any mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to any mental health condition.

In response to the AO, you stated that you do not have additional medical records or documents to send. Based on your response, the AO remained unchanged.

The Board applied liberal consideration to your claim to grappling with undiagnosed mental health challenges and personal circumstances that diminished your judgement and may have had an impact upon the conduct for which you were discharged in accordance with the Kurta Memo.

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. The Board recognized the nature of your duties in ██████████ and the impact that your responsibilities as a freight transportation clerk working with deceased and wounded service members could have on a service member but lacked any evidence to substantiate your mental health condition at the time. Additionally, given the absence of additional information relating to your claims of undiagnosed mental health conditions and even applying liberal consideration, the Board found insufficient evidence to conclude that the length and frequency of your UAs was attributable to mental health challenges and strain from your personal circumstances. 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 extended period of your last UA and cumulative effect of your prior misconduct more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying liberal consideration to your claim of undiagnosed mental health conditions and their potential effect upon your conduct in accordance with the Kurta Memo, 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 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, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, your claimed mental health issues, the evidence you provided in support of your application, your advanced age, 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 as defined by the length of your UAs far outweighed all of the mitigating factors combined. In particular, the Board found that the length of your two periods of UA from 1980 to 1982, and from 1982 to 1987 could not be overcome by information you provided in your application. The Board found that your approximately seven years of total UA after your May 1980 special court martial conviction were contrary to military core values and policy, and were a complete disregard for military authority and regulations. The Board found that you already received a large measure of clemency when your request for an administrative separation to escape trial by court martial was approved. Based on your record of misconduct, the Board determined you were fortunate to receive an OTH characterization of service for misconduct that typically results in a punitive discharge. 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. While the Board commends you for your post-service accomplishments and acknowledged the personal difficulties you have endured, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

Accordingly, given the totality of the circumstances, the Board determined 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,

4/2/2026

