



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

Docket No. 7177-25
Ref: Signature Date

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 10 April 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 the advisory opinion (AO) furnished by a qualified mental health provider and your response to the AO.

You previously applied to this Board for a discharge upgrade and were denied on 19 February 2014. You did not proffer any mental health-related contentions with your first petition. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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

1. You were diagnosed with dissociative personality disorder because you had a mental breakdown when you found out your wife gave you gonorrhea.

2. You had also become addicted to pain medication that was prescribed to you after a surgery.
3. After going UA and then turning yourself in you were told that you would get mental health treatment and addiction treatment at ██████████ in ██████████ but you were subsequently given a “GOS” discharge and the JAG attorney told you it would upgrade automatically six months after your discharge.
4. You recently found out that your discharge did not upgrade automatically.
5. You served honorably until the period immediately preceding the Article 86 incident.
6. On active duty you experienced significant mental-health symptoms, including impaired concentration, sleep disturbance, emotional dysregulation, hypervigilance, and difficulty functioning in a high-stress environment.
7. Such symptoms were not diagnosed or treated by the command, despite observable behavioral changes.
8. Your symptoms directly impaired judgment, impulse control, and ability to follow orders, which are core elements of Article 86 misconduct.
9. The Navy did not conduct a mental-health evaluation before your separation, despite clear indicators of impairment.
10. You now carry a formal VA-recognized mental-health diagnosis, which is consistent with the symptoms you presented on active duty.
11. Under Hagel, Kurta, and Wilkie, the Board must give liberal and special consideration to mental-health conditions that may have contributed to misconduct.
12. Your OTH discharge characterization is inconsistent with your overall service record and with DoD policy requiring consideration of mental-health factors.
13. The failure to evaluate or treat your mental-health condition constituted an error and injustice.

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 request to be discharged in lieu of trial by court-martial. The Board noted you did not deny committing the misconduct that formed the basis of your 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.

However, because you raised the issue of mental health, the Board also requested an AO. A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 16 December 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Medical note dated September 30, 1980, reads as follows: "Pt [patient] claims he would not adjust to the Marine Corps plus he does not like the school where he is at now. Now he wants to get out of service." He was subsequently diagnosed with Immature Personality Disorder.

There is no evidence that the Petitioner suffered from a primary mental health condition while in military service. 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. Of note is that he indicated that he suffered from a Dissociative Disorder (which is quite rare), however there is no evidence of this as contained within his record, nor did he mention this diagnosis or any other mental health issues in a prior petition (2014).

There is evidence that he was diagnosed with a Personality Disorder while in service. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service.

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

Following a review of your AO rebuttal submission, the Ph.D. did not change or otherwise modify their original AO.

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 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. 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. 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, involving a cumulative 107 days of unauthorized absence, more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying 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 Kurta Memo, 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 to include service highlights, your need for veterans' benefits, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your mental health issues, the evidence you provided in support of your application, the advocacy letters 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. The Board also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received significant clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial, thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. 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. 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 that factor. As a result, 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 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,

4/13/2026

[REDACTED]