



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

██████████
Docket No. 7271-25
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session on 24 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 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, 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), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (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 previously applied to this Board for a discharge upgrade and were denied relief on 27 February 1991. In your initial application, you argued that despite your multiple unauthorized absences, you did "fine" while in basic training and "A-School." You also contended that you were unable to adjust to the Navy; however, you were a proud American, taught your son values,

and have been an outstanding citizen post-service. You submitted a second application for reconsideration in which you argued that if “draft dodgers and criminals” could receive clemency and pardons, why couldn’t you receive the same. You contended that you were youthful, did not understand the long-term consequences of your actions, and were remorseful for your conduct. On 3 August 2006, the Board determined your new evidence was not material and denied your reconsideration request without a hearing. In neither application did you raise any mental health issues. 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. Undiagnosed mental health conditions observed by the medical officer and commanding officer (CO) greatly impacted your behavior, performance, judgment and interactions with others and your invisible wounds of suspected undiagnosed mental health conditions and significantly contributed to the mitigated factors or your misconduct.
2. You showed signs of poor coping mechanisms and also showed signs of avoidance due to some type of stressor triggers which explains your unauthorized absences (UA).
3. When reporting to the ship, you were required to watch training films that showed death and destruction.
4. You endured one incident of hazing which you did not report due to the fear of retaliation. In the incident, three Sailors corner and attacked you with a broom and mop handles in the passageway.
5. You did not realize and fully understand the implications of waiving your procedural rights during your administrative separation processing. If you had elected an administrative hearing, you could have presented your case, requested assistance to further your service agreement, or ask for a mental health evaluation due to unknowingly that you may have had some type of issues to make you behave the way you did.

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. The Board noted you admitted to 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. As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued a new AO on 18 February 2026. The Ph.D. stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition while in military service. He submitted evidence of a post-service mental health condition that is temporally remote to service. Furthermore, the evidence submitted does not reference the etiology of/rationale for the diagnosis. Petitioner indicated that he was never afforded counseling during his time in service; however, there is no evidence that he requested any mental health services or that he informed anyone that he was suffering from any mental health conditions. He did not cite any mental health concerns in any separation proceedings or in a prior petition (1999). 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 Ph.D. concluded, "Based on the available evidence, it is my clinical opinion that there is insufficient evidence of any mental health condition or PTSD that existed in service. There is insufficient evidence to attribute his misconduct to PTSD or any mental health condition."

In response to the AO, you provided additional evidence in support of your application. After reviewing your rebuttal evidence, the AO remained unchanged since you did not submit any new medical evidence.

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 your medical evidence is temporally remote to your service and does not provide a rationale for your diagnosis. 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, which resulted in six non-judicial punishments (NJPs), 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 Hagel and Kurta Memos, 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, 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 service to your community, your mental health issues, the evidence you provided in support of your application, your advanced age, the character references 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. In making this finding, the Board was not persuaded by your contention that if you had elected an administrative hearing, your administrative separation processing may have resulted in a different outcome. The Board found your contention to be speculative without substantively explaining how your six NJPs, which included approximately 28 incidents of UA and three missing ship's movements, would not have resulted in an OTH discharge at an administrative hearing. The Board considered that your discharge characterization of service, even prior to this Board's reconsideration, remained unchanged despite three previous hearings before two separate administrative boards.¹ 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. 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 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,

4/10/2026

Executive Director

Signed by:

¹ Prior to the aforementioned applications to this Board, you were denied by the Naval Discharge Review Board on 17 November 1989 and 17 September 1990.