



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

██████████
Docket No. 7406-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 24 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 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). The Board also considered the advisory opinion (AO) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

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:

- You enlisted in the Navy and began a period of active duty on 1 June 1993. As part of your enlistment processing, you admitted to a pre-service history of drug use.
- On 1 December 1993, you absented yourself without authority until 3 December 1993. This resulted in a nonjudicial punishment (NJP) for violation of Article 86, Uniform Code of Military Justice (UCMJ), due to your unauthorized absence (UA). Additionally, you were found

guilty for two specifications under Article 92, UCMJ, for violating lawful general orders and an Article 112a, UCMJ, offense for wrongful use of the controlled substance, cocaine.

- While still in a restricted status from your NJP, you again absented yourself without authority on 3 January 1994. You remained absent until you were apprehended by civil authorities and returned to military control on 27 February 1994.

- On 21 April 1994, you were tried and convicted by Special Court-Martial (SPCM) for multiple UCMJ violations, to include Article 86, for your UA period terminated by apprehension, Article 92, for wrongfully consuming alcohol while under the age of 21, and Article 112a, for wrongful use of marijuana. Your punishment included a Bad Conduct Discharge (BCD), 45 days of confinement, and a forfeiture of \$500.

- On 2 May 1994, you received a physical examination incident to your pending separation, in which you denied any medical problems. Following completion of appellate review of the findings and sentence of your SPCM trial proceedings, your BCD was ordered executed, and you were so discharged from the Navy on 27 January 1995.

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

- You experienced post-traumatic stress disorder (PTSD) during your military service due to childhood events which were aggravated by your military service.

- Although you acted out, you were refused mental health services and were refused treatment for your alcoholism.

- You wish to be able to receive medical treatment from the Department of Veterans Affairs (VA).

In support of your request, you submitted a medical letter and documents pertaining to your diagnosis of PTSD, substance abuse rehabilitation documents, medical records, a health assessment, and progress notes.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately discharged with a BCD based on your SPCM conviction and sentence. The Board noted you did not deny committing the misconduct that formed the basis of your SPCM conviction. Therefore, the Board determined the presumption of regularity applies to your BCD and no error exists with your record.

However, because you contend that PTSD or another mental health condition affected the circumstances of your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with or suffered from any mental health condition while in service. He submitted extensive inpatient records

noting a variety of mental health conditions that are temporally remote to service. The records submitted indicate PTSD from childhood as well as having been beaten up by his neighbor (post-service). 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, "Based on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to PTSD or any other mental health condition."

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. 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. 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.

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, 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, your rehabilitation efforts, your mental health issues, the harshness of your punishment, the evidence you provided in support of your application, 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 determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your BCD. 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. Finally, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Even though 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. While the Board 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 the 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 is attached 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,

5/21/2026

[REDACTED]

Executive Director

Signed by: [REDACTED]