



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

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Docket No. 7507-25
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 9 February 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, 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 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) furnished by a qualified mental health professional on 15 December 2025. Although you were afforded an opportunity to submit an AO 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:

1. You enlisted in the Navy and began a period of active duty on 24 May 2000. As part of your enlistment processing, you admitted preservice use of marijuana.
2. On 28 January 2004, you received an Evaluation Report and Counseling Record with comments indicating that you have been processed for administrative separation as a result of your admission of wrongful use of a controlled substance.
3. Unfortunately, some 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. Your Certificate of Release or Discharge from Active Duty (DD Form 214) reveals that you were separated from the Navy, on 30 January 2004, with a General (Under Honorable Conditions) (GEN) characterization of service, narrative reason for separation of "Misconduct," separation code of "HKK," and you reentry code of "RE-4." Your separation code is consistent with a discharge due to drug abuse.

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 drug abuse admission. While the Board carefully considered your contention that you never abused drugs and only admitted to possibly using drugs as part of your security clearance application, the Board was not persuaded by your argument. The Board found your denial of drug abuse lacks candor and is unsupported by your administrative separation for drug abuse. The Board found your contention that you were administratively processed for drug abuse only because you admitted to possibly ingesting marijuana innocently to be implausible. Rather, the Board determined, it was more likely than not, you were assigned a GEN as a measure of clemency based on your voluntary admission. Therefore, substantial evidence to the contrary, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and were properly separated for misconduct with a GEN characterization of service.

Because you raised the issue of mental health, the Board requested an AO. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition while in service. He was separated for reasons of misconduct; however, there are no details pertaining to the circumstances of his separation. 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 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, "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 a 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 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 questioned how a mental health condition could mitigate misconduct you claim not have committed.

In addition to applying liberal consideration to your claimed mental health condition and its 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 contentions, the totality of your service, the non-violent nature of your misconduct, the fact you voluntarily admitted to your drug abuse at the time, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your service connected disability conditions including your mental health condition, 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 by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, as discussed previously, the Board determined you already received a large measure of clemency when the Navy decided to assign you a GEN characterization of service for conduct that would normally warrant an Other Than Honorable discharge. 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 noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of your misconduct led them to conclude that your service was not Honorable. Therefore, the Board did not find an upgrade of your discharge to 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 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 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,

2/21/2026

