



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204



Docket No. 7660-25

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.

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 17 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), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD)/mental health condition (MHC) (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) furnished by a qualified mental health professional. Although you were provided an opportunity to respond to the AO, 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 U.S. Navy and began a period of active duty on 1 May 1990.
2. On 12 October 1990, you received non-judicial punishment (NJP) for unauthorized absence (UA), willful disobedience of a chief petty officer, breach of peace and drunkenness.

You were subsequently issued a counseling warning for alcohol abuse and were required to schedule and attend the Navy Alcohol and Drug Safety Action Program Class. You were advised that further deficiencies in your performance or conduct may result in disciplinary actions and processing for administrative separation.

3. On 14 December 1990, you received your second NJP for failure to go to your place of duty, two specifications of willful disobedience of a petty officer, disrespect toward a petty officer, and drunk and disorderly conduct.

4. You were issued a second counseling warning for alcohol abuse and were required to attend CAAC screening and follow recommendations upon completion of the CAAC screening. You were advised that further deficiencies in your performance or conduct may result in disciplinary actions and processing for administrative separation.

5. On 22 March 1991, you received your third NJP for UA, assault, communicating a threat and drunk and disorderly conduct.

6. In April 1992, you were psychologically evaluated after sleepwalking and reporting anxiety, and diagnosed with a personality disorder.

7. On 18 June 1992, you were examined by a medical officer regarding abuse of cocaine and marijuana. You admitted to using cocaine three times a week and marijuana once a week for a period of six months. You were found to be dependent on alcohol, cocaine, and marijuana.

8. On 26 June 1992, your command sent out a request for you to be administratively separated due to other physical/mental conditions¹. This request was approved by the separation authority on 3 August 1992. In the meantime, you commenced another period of UA on 29 July 1992.

9. On 5 August 1992, your commanding officer (CO) requested to cancel your administrative processing for other physical/mental conditions due to your UA status and pending disciplinary action.

10. On 7 August 1992, you returned from UA. On 17 August 1992, you received your fourth NJP for two specifications of UA, wrongful use of cocaine, and wrongful use of marijuana.

11. Consequently, you were notified of administrative separation processing for misconduct pattern of misconduct, commission of a serious offense, and drug abuse. After you waived your rights, the CO made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation on the basis of commission of a serious offense, and you were so discharged on 17 November 1992.

¹ Your record did not contain your administrative separation processing package pertaining to this request. However, it was presumably based on your sleepwalking or diagnosed personality disorder.

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. While the Board carefully considered your contention for mitigation and claims that you were coerced into consuming alcohol, the Board noted you provided no evidence, other than your statement, to substantiate your contention of coercion. Further, the Board noted you did not deny committing the non-alcohol related misconduct, including the multiple incidents of drug abuse, that also formed the basis for 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 an AO on 1 January 2026. The Ph.D. stated in pertinent part:

There is no evidence that he suffered from any primary mental health condition while in service. Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated. 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. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between any mental health condition or 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 Ph.D. 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 any 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 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. 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 claimed mental health condition and its potential effect upon your conduct in accordance with the Hagel and Kurta Memos, 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, your need for veterans' benefits, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your claimed mental health issues, your contentions of command coercion, 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, 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. Based on your record of misconduct, your command appears to have gone to extraordinary lengths to not process you for misconduct when they initially forwarded a request to separate you for other physical/mental condition. 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. 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. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. While the Board acknowledged the substance abuse issues you experienced and commend you for your post-service efforts to achieve sobriety, ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct.

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,

3/10/2026

