

1. You enlisted in the Navy and commenced active duty on 23 January 2001. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 5 November 2004.

2. On 19 March 2007, you commenced a period of UA, during which you missed ship's movement and were declared a deserter, that ended in your apprehension by civilian authorities on 13 February 2008.

3. Unfortunately, the 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. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated on 5 March 2008 with an "Under Other Than Honorable Conditions (OTH)" characterization of service, your narrative reason for separation is "In Lieu of Trial by Court Martial," your reentry code is "RE-4," and your separation code is "KFS," which corresponds to conduct triable by courts-martial for which the member may voluntarily separate in lieu of going to trial.

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

1. You were given no mental health treatment regarding your absence without leave and no treatment for your undiagnosed PTSD.

2. You are now being treated by the Department of Veterans Affairs (VA) for PTSD.

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 331-day period of UA and subsequent request to be discharged in lieu of trial by court-martial. 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's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 30 December 2025. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to the circumstances of his separation from service.

There is no evidence that he was diagnosed with PTSD or another mental health condition in military service. Temporally remote to his military service, the VA has provided treatment for PTSD and other mental health concerns. While it is possible to consider UA a behavioral indicator of avoidance from undiagnosed PTSD

symptoms, it is difficult to attribute the Petitioner's misconduct to PTSD, particularly given his statement that his UA was to address marital difficulties.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is some post-service evidence from VA providers of PTSD and other mental health concerns that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or other mental health concerns."

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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your post-service medical evidence. However, 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 agreed with the AO that you attributed your UA to marital difficulties rather than your mental health condition. 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 331-day UA 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, your rehabilitation efforts, your mental health issues, the evidence you provided in support of your application including the advocacy letter, 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 an opportunity 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. Further, 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. 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, 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. 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

