



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

██████████
Docket No. 7973-25
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 6 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, 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 and your response to the AO.

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 4 December 1989. During your enlistment processing, you disclosed prior marijuana use, as well as disorderly conduct and speeding infractions. You also signed a Statement of Understanding (SOU) acknowledging the Navy's drug and alcohol abuse policy.
2. On 6 December 1989, you were issued administrative remarks documenting that you were again briefed on the Navy's drug and alcohol abuse policy.

3. On 10 May 1991, you were issued administrative remarks documenting your retention in the Naval service and identifying deficiencies in your performance, with recommendations for corrective action, including completing assigned tasks in a timely manner while ensuring quality, reporting for all required musters and watches, and adhering to the guidance of assigned petty officer. The remarks further advised that any additional deficiencies in your performance or conduct could result in disciplinary and administrative separation processing.

4. On 7 June 1991, you received nonjudicial punishment (NJP) for wrongful use of cocaine, two specifications of disrespect towards a petty officer, a five-day unauthorized absence, and provoking speeches or gestures. Your punishment included reduction to paygrade to E-2 and 45 days of restriction and extra duties. You were again issued a retention counseling/warning.

5. On 14 June 1991, you received a second NJP for wrongful use of cocaine. Your punishment included 30 days of confinement in the correctional custody unit. You were issued an additional retention counseling/warning.

6. On 4 December 1991, you received a third NJP for unauthorized absence and disrespect toward a superior commissioned officer. Your punishment included reduction to paygrade E-2 and 30 days of restriction and extra duty.

7. Consequently, you were notified of your pending administrative processing by reason of misconduct due to commission of a serious offense (COSO) and pattern of misconduct (POM), at which time you waived your right to present your case to an administrative discharge board after consulting with counsel. A subsequent substance abuse evaluation determined there was no evidence of abuse nor drug dependency. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of pattern of misconduct. On 5 March 1992, you were so discharged.

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

1. You incurred mental health concerns during your military service.
2. The events of your discharge were uncharacteristic of your time in the Navy and that untreated mental health issues stemming from the ██████████ were not taken into consideration at the time of your discharge.

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. A qualified mental health professional reviewed your request for correction of your record and provided the Board with an AO on 22 December 2025. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service behavior that appears to have continued in service and the Petitioner's denial of mental health symptoms upon evaluation in service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion that there is insufficient evidence of a diagnosis of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a mental health condition."

In response to the AO, you submitted additional evidence in support of your case. After reviewing your rebuttal evidence, the AO remained unchanged due to more weight given to pre-service behavior and in service statements.

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 post-service medical evidence is temporally remote 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 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 included multiple drug offenses and orders violations, 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 relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your post-service record of accomplishments, your current mental health issues, 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 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. The Board also 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. While the Board commends you for your post-service accomplishments and rehabilitation efforts, 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,

4/13/2026

