



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

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Docket No. 8252-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 10 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional and your response to the AO.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 11 December 1990.

2. On 29 November 1991, you were issued a counseling warning for your inability to meet requirement for duties on time. It was recommended for corrective action that you stop assuming, review and learn squadron doctrines, rules, regulations, ask more questions when in doubt regardless of any derogatory remarks you may receive, and keep up on medical health and see the doctor when necessary. You were advised further deficiencies in your performance and or conduct may result in disciplinary action and in processing for administrative discharge.

3. On 8 January 1992, you received non-judicial punishment (NJP) for two specifications unauthorized absence (UA) for failure to go to your appointed place of duty and being absent from your place of duty, and for disobeying a lawful order to be in your room for re-inspection. All of your punishment was suspended for six months.

4. On 22 April 1992, you were again counseled on military behavior, unauthorized absence, and your military responsibilities after reporting late for work on several occasions. You were counseled to obtain an alarm clock and leave for work in time to allow for unforeseen delays.

5. On 4 May 1992, the suspension of your reduction in rate from your prior NJP punishment was vacated due to your continued misconduct. That same day, you received NJP for six additional specifications of failing to go to your appointed place of duty and two specifications of disobeying a lawful order.

6. On 18 May 1992, you were referred to mental health after ingesting over the counter medication in an attempt not to report to the ship. You were diagnosed an adjustment disorder, alcohol abuse, and a personality disorder with narcissistic and antisocial traits.

7. On 20 May 1992, you received a third NJP for two days unauthorized absence (UA) and missing ship's movement.

8. Consequently, you were notified of administrative separation processing for misconduct pattern of misconduct and commission of a serious offense. You consulted with legal counsel and elected an administrative discharge board (ADB).

9. On 5 July 1992, you were seen at a civilian hospital after you struck a parked car while riding a bicycle after drinking large amounts of beer. You received x-rays and were diagnosed with abdominal pain, orthopedic pain, and tenderness without any fractures.

10. On 25 July 1982, the ADB determined that you committed misconduct recommended you be discharge with an Other than Honorable (OTH) characterization of service. At the ADB, you were represented by a qualified lawyer, were able to question witnesses, and presented evidence in support of your case, including your testimony. The ADB report contains a summary of your chain of command's testimony regarding their efforts to correct your conduct and performance issues. Each testified that their efforts were unsuccessful despite many attempts to assist you through your alcohol and personal issues. Your Branch Officer further testified that he found you unreliable after you attempted to use a family illness as an excuse to over-extend your emergency leave. All your supervisors testified that you had no potential for further service.

11. Your Commanding Officer (CO) concurred with the ADB's recommendation and made the following remarks in his endorsement to the separation authority (SA):

“...[Petitioner's] performance and actions have been prejudicial to the good order and discipline of my command and the United States Navy. He is irresponsible, unmotivated, and unwilling to conform to Navy orders and regulations. While it is apparent that [Petitioner] has difficulty in dealing with alcohol, he has been provided ample counseling and his service is not such to warrant any further treatment...”

12. The SA accepted the ADB recommendation and you were so discharged on 21 September 1992.

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 of mistreatment, racial discrimination, medical neglect, and denial of due process, the Board noted you did not deny committing the misconduct and provided no evidence, other than your statement, to substantiate your contentions. Further, contrary to your contention of mistreatment and discrimination, the Board noted that your command suspended all of your punishment awarded at your initial NJP and continually counseled you on how to overcome your conduct issues. The Board determined these action are wholly inconsistent with your allegations that you were being racially targeted by your command. Therefore, 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 no error exists with your OTH characterization of service.

However, because you raised the issue of mental health and Traumatic Brain Injury (TBI), 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 evidence that the Petitioner was diagnosed with an Adjustment Disorder and Personality Disorder while in service. An Adjustment Disorder is different from a primary mental health condition such that the symptoms thereof are expected to resolve once situational stressors subside. Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during a psychiatric visit. 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 by definition, 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 submitted evidence of diagnoses of ADHD, Adjustment Disorder and PTSD that are temporally remote to service. Furthermore, his description of events that reportedly caused PTSD symptoms does not meet criteria for PTSD as per DSM-V-TR guidelines. 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 primary mental health condition or TBI that existed in service. There is insufficient evidence to attribute his misconduct to any mental health condition, PTSD or TBI."

In response to the AO, you provided additional evidence in support of your application. After reviewing your rebuttal evidence, the AO remained unchanged.

The Board applied liberal consideration to your claim that you suffered from a TBI and mental health condition, and to the effect that these 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 TBI or a 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 TBI or any mental health conditions, the Board unequivocally concluded that the severity and cumulative negative effect of your serious misconduct more than outweighed the potential mitigation offered by either condition.

In addition to applying liberal consideration to your claimed TBI and 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, 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, your claim of racial discrimination and disparate treatment, your claim of the harshness of your punishment, 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 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. Further, the Board was not persuaded by your arguments of mistreatment and discrimination. In reviewing the testimony at your ADB, the Board found ample evidence that you were fully supported by your chain of command despite your chronic UA and alcohol related issues. Additionally, 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.

Regarding your request for restoration of GI Bill benefits, the Board noted those benefits fall under the cognizance of the Department of Veterans Affairs. The Board has no statutory authority to grant, restore, or even determine your eligibility for the GI Bill. Therefore, the Board took no action on this aspect of your application.

Finally, the Board found no evidence to support your request for a disability retirement. First, the Board found no evidence to support a finding that you were unfit for continue naval service due to a qualifying disability condition. The Board observed you were never referred to a medical board by any of your medical providers and your command did not provide a non-medical assessment that you were unable to perform your military duties. Therefore, the Board determined there was no medical basis for you to be referred to the Disability Evaluation System. Second, as explained previously, the Board found that you were appropriately discharged with an OTH based on your record of misconduct. As a result, even if there was medical evidence of a qualifying disability condition along with evidence of unfitness, the Board concluded you were ineligible for disability processing due to your misconduct based administrative separation. Thus, the Board found no error or injustice with your assigned reason for separation and reentry code.

Accordingly, given the totality of the circumstances, the Board determined 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,

2/26/2026

