



Docket No. 8454-25
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 13 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 this 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, and 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) (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 did not do so.

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:

- You enlisted in the Navy and commenced active duty on 22 June 1999.
- On 16 September 2000, you received non-judicial punishment (NJP) for unauthorized absence (UA) and larceny.
- On 24 October 2000, you received NJP for UA.
- On 15 August 2001, you received NJP for four specifications of UA. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.
- On 7 October 2001, you received NJP for UA and failure to obey a lawful order. The same day, you were notified of pending administrative separation processing with a least favorable characterization of service of General (Under Honorable Conditions) (GEN) by reason of misconduct due to a pattern of misconduct. You elected to consult with legal counsel and requested General Court Martial Convening Authority review. The separation authority subsequently directed your discharge with a GEN characterization of service, and you were so discharged on 16 October 2001.

In your application to this Board, you express a desire for your discharge character of service be upgraded, your reason for separation be changes, and your separation code be changed. You contend that:

- Untreated depression and mental stress mitigate your misconduct. However, you proudly served in the Navy and your record does not fully explain the circumstances of your misconduct and overall service.
- You did not receive appropriate mental health support despite experiencing symptoms of depression and emotional distress.
- Your post-discharge good conduct and outreach work warrant relief.
- You are seeking relief to assist you in serving your community, set an example to others, and to gain access to veterans' benefits.

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 do not deny committing the misconduct that formed the basis of your administrative separation and GEN discharge. Therefore, the Board determined the presumption of regularity applies to your GEN discharge 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 15 January 2026. The AO stated in pertinent part:

Petitioner contends he incurred PTSD and other mental health conditions during military service, which may have contributed to the circumstances of his separation from service.

There is no evidence that the Petitioner was diagnosed with PTSD or suffered from any mental health condition or symptoms thereof. He submitted evidence of post-service diagnoses of PTSD, Psychotic Disorder NOS, and Depressive Disorder NOS; however, the etiology of/rationale for the diagnoses was not presented with any of his evidence. Thus, neither the evidence submitted nor his personal statement are sufficiently detailed to provide a nexus between any mental health condition and his in-service misconduct.

The AO concluded, "Based on the available evidence, it is my clinical opinion that there is sufficient evidence of post-service mental health conditions. There is insufficient evidence to attribute his in-service misconduct to PTSD or any other 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 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 diagnosis. 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 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 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 and change to your reason for separation, 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 post-service record of accomplishments, your service to your community, your 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 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 GEN 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. In making this finding, the Board considered that you were fortunate you received a GEN discharge characterization of service despite possessing a record that typically results in an Other Than Honorable discharge. Thus, the Board determined you already received substantial clemency in your case. 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. Ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice. Based on the same rationale, the Board also determined your reason for separation and separation code remain appropriate.

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,

5/19/2026

■

Executive Director

Signed by: ■