



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

██████████
Docket No. 8537-25
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 27 April 2026. The names and votes of the panel members will be furnished upon request. Your allegations of error or 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, 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), 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 an advisory opinion (AO), furnished by a qualified mental health professional and your response to the AO.

You previously applied to this Board for an upgrade to your characterization of service and were denied on 7 February 2012. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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

- You incurred mental health concerns during military service.
- You never received any counseling from your chain of command.
- You believe your positive urinalysis for cocaine use was a false positive. You were taking medication at the time related to a leg surgery.

- You did not fully understand your procedural rights associated with your administrative separation.

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 considered your contention that you were the victim of a false positive urinalysis but was not persuaded. The Board noted your only evidence included articles on Navy drug testing and did not include any evidence specific to your case. Therefore, the Board determined the presumption of regularity applies to your OTH discharge and no error exists with your record.

However, because you contended that you incurred mental health concerns during military service, which may have contributed to the circumstances of your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 2 January 2026. The AO stated in pertinent part:

During military service, the Petitioner was diagnosed with an alcohol use disorder. There is no evidence that he was diagnosed with another mental health condition in military service. The Petitioner has submitted no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given his denial of having engaged in the misconduct. 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, "Based on a review of all available evidence, it is my considered clinical opinion that there is insufficient evidence 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.

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 Kurta Memo. 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 and agreed with the AO that your claim that a mental health condition should mitigate your misconduct is inconsistent with your denial of committing the misconduct.

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 Kurta Memo, 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, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your advanced age, 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. 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. 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. Contrary to your contention you were never counseled, the Board noted four counseling entries in your record spanning from 17 June 1984 to 16 August 1985. 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 also considered that you entered the Marine Corps with an extensive pre-service history of misconduct that appears to have continued during your relatively brief period of active duty service. Finally, the Board was not persuaded by your contentions regarding your lack of understanding of the administrative separation processing and your procedural rights. In reviewing your record, the Board observed that you acknowledged your procedural rights associated with your administrative separation processing on 24 October 1985. In that document, you acknowledged that you understood your rights and, with the assistance of legal counsel, elected to waive your right to a hearing before an administrative board. This rights acknowledgment form was co-signed by your legal counsel. Based on these factors, 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,

5/20/2026

