



Docket No. 8545-25
Ref: Signature Date

Dear [REDACTED]

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 24 March 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) 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 afforded an opportunity to submit an AO rebuttal, you chose not to 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:

1. You enlisted in the Navy and began a period of active duty on 24 August 2001. On 1 November 2001, you reported to [REDACTED], [REDACTED], [REDACTED] for temporary duty.

2. On 6 March 2002, you received non-judicial punishment (NJP) for four specifications of failure to go at the time prescribed to your appointed place of duty and violation of a lawful general regulation by wrongfully consuming an alcoholic beverage while under the age of 21.

3. On 15 April 2002, you received a mental health evaluation and were diagnosed with alcohol dependence, oppositional defiant disorder, and personality disorder. You were recommended for administrative separation due to personality disorder.

4. On 19 April 2002, you received your second NJP for unauthorized absence (UA). On 21 June 2002, you received your third NJP for three specifications of failure to go at the time prescribed to your appointed place of duty and two specifications of UA totaling 20 days.

5. On 15 May 2002, you commenced a period of UA that ended on 2 June 2002.

6. On 21 June 2002, you received your final NJP for six specifications of UA.

7. Subsequently, on 25 June 2002, you were notified that you were being recommended for administrative discharge from the Navy by reason of convenience of the government - personality disorder and misconduct due to commission of a serious offense. You were informed that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You waived your right to consult with counsel, to present your case to an administrative discharge board, and to submit a written statement in rebuttal to your separation.

8. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an OTH characterization of service. The separation authority approved the recommendation and directed your administrative discharge from the Navy for misconduct due to commission of a serious offense. You were so discharged on 3 July 2002.

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

1. You were in the process of a medical separation after being diagnosed with a mental health condition.

2. Your mental health condition directly contributed to your misconduct.

3. You knew nothing of a mental health condition until you joined the Navy.

4. Your mental health condition was triggered after 9/11.

5. You were young and under a tremendous amount of mental stress without knowing how to manage it.

6. You did not have a home support system when you was in the military to guide you.

7. You regret not advocating for yourself to stay connected to the Navy, it was one of the worst mistakes in your life.

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 did not deny 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, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 20 January 2026. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated, including during an inpatient hospitalization. His personality, adjustment, and alcohol use disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. 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. An adjustment disorder typically resolves once the stressor, such as military service, is removed. An alcohol use disorder describes problematic alcohol behavior that is incompatible with military readiness and discipline. The Petitioner has provided evidence of civilian mental health treatment for other mental health concerns that are temporally remote to his military service and appear unrelated. However, his in-service misconduct appears to be consistent with his diagnosed personality and alcohol use disorders, rather than evidence of another mental health condition incurred in or exacerbated by military 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, "Based on a review of all available evidence, it is my considered clinical opinion that there is in-service evidence of a diagnosis of a mental health condition (Adjustment Disorder) that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a mental health condition, other than possible personality or alcohol use disorder."

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 an adjustment disorder that may be attributed to military service. This conclusion is supported by the AO and your in-service medical record. The Board, conversely, did not find sufficient evidence that you suffered from any other mental health condition. This conclusion is also supported by the AO and the fact your post-service medical evidence is temporally remote to your service. 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 claimed 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 desire for an upgrade to your characterization of service, your contentions, 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 post-service record of accomplishments, your candor and remorse, 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 concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service but you continued to commit additional 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, 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,

4/2/2026

