



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

██████████
Docket No. 8594-25
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 11 May 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 on 12 January 2026, and your response to the AO.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined 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 began a period of active duty on 4 July 1992. As part of your enlistment processing, you admitted preservice civil infractions such as speeding, no seatbelt, and no proof of insurance.

- On 14 June 1994, you were charged and convicted by civil authorities with reckless driving. You were sentence to a period of confinement, and a \$100.00 fine plus court cost.
- On 30 June 1994, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA), willful disobedience of a lawful order from a petty officer, and dereliction of duty.
- On 21 March 1995, you sustained a gunshot wound on the left side of your chest.
- On 27 July 1995, you received a second NJP for six instances of UA. On 31 August 1995, you were counseled concerning your previous NJPs and civil court conviction. You were advised that failure to take corrective action could result in administrative separation.
- On 6 February 1996, you received a third NJP for a violation of a lawful general order, dereliction of duty, and two periods of UA.
- Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and commission of a serious offense. After you decided to waive your procedural rights, you began a period of UA which lasted one day on 20 February 1996. Upon your return, your commanding officer recommended you be discharged with an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation by reason of misconduct due to commission of a serious offense and you were so discharged on 1 March 1996.

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

- You were a young and immature Sailor with the intent of improving your circumstances and supporting your family financially, without a full understanding of Navy culture or the potential challenges you would face.
- Mental health considerations were not adequately evaluated during your discharge process.
- During your service, you performed limited duty while experiencing ongoing pain from a prior injury and were not evaluated or trauma or PTSD following a March 1995 incident.
- Despite receiving an OTH discharge, you desire to correct past mistakes and acknowledges the shame you have carried regarding this period of your service.
- When you received NJPs, the consequences of an OTH discharge were not fully explained, and you were instructed to initial documents without sufficient guidance.

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. While the Board considered your contention that you lacked proper understanding of your administrative separation process and consequences of an OTH discharge, the Board noted your statement of awareness and request for, or waiver of privileges document explicitly states that you understand that if your discharge is “Under Other Than Honorable Conditions, it may deprive [you] of virtually all veterans’ benefits based upon [your] current period of active service, and that [you] may expect to encounter substantial prejudice in civilian life in situations wherein the type of service rendering in any branch of the Armed Forces or the character of discharge received therefrom may have a bearing.” Therefore, the Board was not persuaded by your contention and determined the presumption of regularity applies to your OTH 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, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with or suffered from PTSD or any mental health condition/symptoms while in service. He submitted post-service evidence of a variety of mental health diagnoses; however, the rationale for/etiology of the diagnoses is not contained in the evidence submitted. Therefore, a nexus cannot be said to exist between his post service mental health diagnoses and his in-service misconduct. 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 AO concluded, “Based on the available evidence, it is my clinical opinion that there is sufficient evidence of mental health conditions that are temporally remote to service. There is insufficient evidence to attribute his misconduct to PTSD or any mental health condition.”

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 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 temporally remote medical evidence. 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. 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, 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, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your remorse, your service to your community, your mental health issues, the evidence you provided in support of your application, the character references you provided for review, 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. 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 the comments from your commanding officer which detailed the warnings you were given about your continued misconduct and the administrative burden you caused the command due to your UAs. Finally, 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. While the Board commends you for your post-service accomplishments and appreciates your expression of remorse, 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 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,

5/29/2026

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