



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

██████████
Docket No. 8748-25
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 28 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 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 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 U.S. Navy and began a period of active duty on 5 July 1978.
- On 28 May 1979, you received non-judicial punishment (NJP) for two specifications unauthorized absence (UA) from your appointed place of duty, two specifications of disobeying a lawful order and dereliction in the performance of your duties. You were subsequently issued a counseling warning for involvement of a discreditable nature with military or civil authorities.

You were further advised that any further similar conduct will result in being considered for separation.

- On 29 November 1979, you received your second NJP for ten days UA.
- On 7 February 1980, you received your third NJP for 14 days UA and possession of marijuana.
- Consequently, you were notified of administrative separation processing for convenience of the government. After you consulted with military counsel, you waived your rights to an administrative board. The CO made his recommendation to the Separation Authority (SA) that you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service.
- Prior to the SA acting, you started a period of UA on 28 March 1980 that lasted until 27 May 1980. As a result, you were notified of administrative separation processing for frequent involvement of discreditable nature with military authorities. After you consulted with military counsel, you waived your right to an administrative discharge board but elected to submit a statement. The CO submitted a disposition recommendation and noted your drug use, marijuana two times weekly from September 1978 to May 1980; Barbiturates 14 times in May 1980; Amphetamines 20 times in May 1980; LSD four to five times monthly from October 1979 to March 1980 and Cocaine one time monthly from January 1980 to May 1980.
- On 2 June 1980, you were found guilty at summary court-martial (SCM) for 60 days UA and possession of marijuana. You were sentenced to confinement and forfeiture of pay.
- On 8 June 1980, the CO made his recommendation to the SA that you be discharge with an Other than Honorable (OTH). The SA approved the recommendation and you were so discharged on 27 June 1980.

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 related misconduct, including the multiple incidents of drug abuse, that also formed the basis for 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 review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO on 10 February 2026. The Ph.D. stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with any primary mental health condition or symptoms while in service. He was seen by Mental Health at

least three times where he was not given a diagnosis following the first two visits. On the third visit, symptoms of a personality disorder were noted and the examiner indicated, "Overt personality disorder." During all three visits he admitted to problems with his superiors and peers which are consistent with current petition. Frequently missing work and his UA would be typical of one who was trying to avoid further problems and/or hazing from his peers. However, given his extensive abuse of a variety of illegal drugs, it also appears as though he met criteria for polysubstance abuse/dependence. Thus, it cannot be said with certainty that his misconduct was caused by hazing.

The Ph.D. concluded, "Based on the available evidence, it is my clinical opinion that there is sufficient evidence of polysubstance abuse/dependence that occurred in service. There is insufficient evidence that his misconduct could be said to have been caused by hazing alone."

In response to the AO, you provided additional letter in support of your application. After reviewing your rebuttal letter, the AO remained unchanged since you did not submit any new medical evidence.

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 polysubstance abuse/dependence that occurred in service but insufficient evidence of PTSD. This conclusion is supported by the AO and the medical evidence in your record. 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 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 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 mental health issues, 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 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. 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 acknowledged the substance abuse issues you experienced, ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct.

Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board noted you checked the "Reprisal/Whistleblower" box on your application and mentioned allegations of hazing and harassment by your shipmates. However, the Board found no evidence of a reprisal action by your command based on your narrative of events. The Board thus determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC § 1034. 10 USC § 1034 provides the right to request Secretary of War review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoW policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a *de novo* review and under 10 USC § 1034(c) the Secretary of War cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of War for Personnel and Readiness (USW(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR; therefore, please also include previously presented documentation that supports your statements.

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, _____

5/21/2026



Executive Director

Signed by: 