



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

Docket No. 9023-25
Ref: Signature Date

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 23 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 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 30 January 2026. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board for a discharge upgrade and were denied on 6 February 2018. In your initial application to the Board, you contended that your discharge failed to recognize your performance and dedication to duty. You did not raise any mental health or

traumatic brain injury (TBI) related issues. 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. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

1. You enlisted in the Marine Corps and began a period of active duty on 4 May 1989.
2. On 31 August 1990, you received nonjudicial punishment (NJP) for disobeying a lawful order, indebtedness in the sum of \$1,800.00, and making and uttering worthless checks.
3. On 1 October 1990, you were counseled concerning the use of poor judgement and unbecoming conduct by failing to maintain sufficient funds in your bank account. You were advised that failure to take corrective action could result in administrative separation.
4. On 23 May 1991, you received a second NJP for a period of unauthorized absence (UA) from your appointed place of duty. You were counseled concerning frequent involvement with authorities and conduct unbecoming a Marine. You were again advised that failure to take corrective action could result in administrative separation.
5. On 7 June 1991, you received a third NJP for a period of UA from your appointed place of duty and willfully disobeying a lawful order.
6. On 21 June 1991, you were counseled concerning being assigned to Level I Treatment for due to your alcohol related incidents. You were once again advised that failure to take corrective action could result in administrative separation.
7. On 27 August 1991, you received a fourth NJP for intent to defraud by falsely altering a check.
8. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and you decided to waive your procedural rights. Your commanding officer recommended you be discharged with an Other Than Honorable (OTH) discharge characterization of service. After your administrative separation proceedings were determined to be sufficient in law and fact, the separation authority approved the commanding officer's recommendation. On 16 December 1991, you were so discharged.
9. Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on ██████████, after determining your discharge was proper as issued.

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

1. You have successfully rehabilitated and respectfully request a discharge upgrade.

2. Your discharge was the result of actions influenced by underlying and untreated mental health conditions experienced during military service.
3. You struggled with emotional and psychological difficulties related to combat stress, trauma, and anxiety, which contributed to substance abuse.
4. You were not mentally, emotionally, or legally capable of pursuing a discharge correction due to the long-term struggles with substance abuse and subsequent criminal behavior.
5. You encountered significant legal and personal challenges stemming from substance abuse.
6. You have taken responsibility for your actions and actively sought help during a period of incarceration.
7. You have recently completed a six-month inpatient alcohol and drug treatment program.
8. You have worked diligently to maintain sobriety and maintain sobriety and rebuilt 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 TBI and 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 Petitioner was diagnosed with or suffered from a mental health condition or TBI while in service. He submitted evidence of diagnoses of PTSD, Major Depressive Disorder and Generalized Anxiety Disorder that are temporally remote to service. The notes submitted do not cite a nexus between his post-service diagnoses and in-service misconduct. Furthermore, the nature and pervasiveness of his misconduct is not typical of that which would be expected to have been caused by a mental health condition or a TBI. 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 insufficient evidence of a mental health condition or TBI that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

The Board applied liberal consideration to your claim that you suffered from TBI and a mental health condition, and to the effect that these conditions 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 insufficient evidence of a diagnosis of TBI or a mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact your medical evidence is temporally remote to your service. 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 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 TBI and a mental health condition, and to the effect that these conditions 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 current 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. While the Board commends you for your post-service rehabilitation efforts and 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 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,

4/10/2026

