

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

record was erroneous. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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

- Your Other Than Honorable (OTH) discharge does not accurately reflect you as a person, has reflected negatively on you, making it difficult to acquire employment and complete current eligibility for military health/disability benefits.

- You were dealing with some mental anguish and the onset of PTSD during your time in Service. There is considerable doubt you would have been given the same discharge under the new policy.

- The Navy had already given you an Honorable discharge.

- Within your first year of service, he had to deal with various social issues/concerns, losing a very close family member and trying to be a father to a 3-year old daughter without support and guidance needed to help you cope.

- You made decisions that would go against your better judgement, and your last effort to find your way was a suicide attempt that resulted in confinement to the psych ward.

- You were discharged honorably with a Personality Disorder on 17 May 94 and required to remain on TAD. This sent you further into disappointment, fear of lack of acceptance, and depression.

- Regrettably you got into trouble during this time with drugs and hanging with the wrong people. You can never imagine how much this changed the life of the victim of your crime, and for that you will be forever remorseful.

- You worked to move away from negativity since his release from the Navy and actions at 20 years old. You are happily married, a father, step-father and grandfather, a licensed CDL driver, and have been a trucking owner-operator for over 10 years, which came as a result of being denied work due to your discharge status.

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 do not deny committing the misconduct that formed the basis of your administrative separation and OTH discharge. Further, the Board found no evidence you were ever discharged from the Navy prior to your OTH discharge. While the Board considered the DD Form 214 that purports to discharge you for a personality disorder, that form is unsigned by the authorized official and is not evidence of a final

discharge. Therefore, the Board 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 review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO on 22 April 2026. The Ph.D. stated in pertinent part:

During military service, the Petitioner was diagnosed with an adjustment disorder and a personality disorder. An Adjustment Disorder typically resolves once the stressor, such as military service, is removed. A personality disorder indicates characterological traits that are incompatible with military service. The Petitioner was scheduled to receive an administrative separation for his mental health diagnoses, but he left UA prior to completion of the administrative processing. While UA, he engaged in the misconduct that contributed to his discharge character of service. It is difficult to attribute his misconduct while UA to his mental health diagnoses, particularly as attempted murder is not a symptom of a mental health condition. The Petitioner has provided no post-service medical evidence to support his claims. 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 Ph.D. concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is in-service evidence of another mental health condition (adjustment disorder) that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

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 insufficient evidence of a diagnosis of mental health condition, other than adjustment disorder, 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 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 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, your need for veterans' benefits, 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 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. 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. Additionally, the Board considered the service discrediting effect your civil conviction for attempted murder had on the Navy. 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, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Even though the Board considered your possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from those factors. While the Board commends you for your post-service accomplishments and acknowledged the personal difficulties you have endured, 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,

5/28/2026

