



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

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Docket No. 9049-25
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 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).

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.

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 31 January 1963.

2. Between 26 September 1963 to 22 February 1965, you received nonjudicial punishment (NJP) on eight occasions for misbehavior as a sentinel, five instances of unauthorized absence (UA), possession of a false Armed Forces ID, committing a nuisance, and willful damage to government property by destroying, and tearing apart an ID card.

3. On 2 April 1965, you were convicted by summary court martial (SCM) for two instances of UA and making a false official statement. You were sentenced to forfeiture of pay and a period of confinement at hard labor.

4. On 30 November 1965, you were convicted by special court martial (SPCM) for larceny of one Sanyo tape recorder and several recording tapes valued at \$120.00. You were sentenced to reduction in rank, a period confinement at hard labor followed by restrictions, and forfeiture of pay.

5. On 14 February 1966, while you were in an UA status, you were apprehended by civil authorities by being in possession of a false ID card. On 21 February 1966, you received NJP for the period of UA and were notified of administrative separation processing for repeated military offenses.

6. On 28 February 1966, your commanding officer recommended you receive an undesirable (OTH) discharge characterization of service by reason of unfitness due to frequent involvement. The separation authority approved the recommendation and you were so discharged on 4 April 1966.

7. Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 24 July 1978, 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 were wrongfully discharged and abused by your commanding officer at the end of service.

2. You were coerced to sign papers and did not do it by your own free will.

3. You were traumatized at the beginning of your service from the beatings in boot camp, which caused you to be intimidated by your commanding office.

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. While the Board carefully considered your contention of abuse and coercion, the Board noted you did not deny committing the misconduct that formed the basis of your administrative separation and OTH discharge. Further, you provided no evidence,

other than your statement, to substantiate your contentions of unfair treatment. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

However, the Board also 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 that may be attributed to military service. This conclusion is supported by the fact you provided no medical evidence in support of your claim and did not respond to the Board's request for supporting evidence. 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. 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 a upgrade to your characterization of service, your contentions of abuse and coercion, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your advanced age, 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. In reviewing your records, the Board noted that your immediate supervisors advocated for you after your SPCM, despite your previous eight NJPs and SCM conviction, arguing that you could be rehabilitated since you had recently exhibited a change in performance within your division. Less than three months later, you were arrested for forgery while in a UA status. The Board concluded this exemplified your entire service with the Navy, which was appropriately characterized as undesirable. Further, the Board noted the absence of any acceptance of responsibility or remorse in your application. Instead you allege due process violations and abuse which cannot be reconciled with your chain of command's continued support despite your remarkable record of misconduct. 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.

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,

3/25/2026

