



- You enlisted in the Navy and commenced active duty on 13 June 1998.

- On 10 June 1999, you received non-judicial punishment (NJP) for unauthorized absence (UA) and disrespect toward a petty officer. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

- On 19 August 2001, you received NJP for dereliction of duty.

- On 20 August 2001, you received NJP for disobeying a lawful order from a petty officer.

- On 3 October 2001, you received NJP for desertion, breaking restriction, and failure to obey a lawful order.

- On 9 October 2001, you received NJP for wrongful use of a controlled substance.

- On 18 October 2001, you were convicted at Summary Court Martial (SCM) of willful disobedience of a commissioned officer and failure to obey a lawful order.

- Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 19 December 2001, with an "Under Other Than Honorable Conditions" (OTH) characterization of service, narrative reason for separation of "Misconduct – Due to Drug Abuse," reentry code of "RE-4," and your separation code of "HKK," which corresponds to misconduct - drug abuse, admin discharge board required but waived.

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

- You were suffering from separation anxiety from being away from family during your parents' divorce and knew this was an issue before you left home because of your younger siblings.

- You began drinking heavily which led to your misconduct, and you now suffer from anxiety and tinnitus.

In support of your application, you provided advocacy letters.

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. 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's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 4 February 2026. The AO stated in pertinent part:

Petitioner contends he incurred mental health symptoms during military service, which may have contributed to the circumstances of his separation from service.

There is no evidence that the Petitioner was diagnosed with or suffered from any mental health condition/symptoms while in service. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between a mental health condition and his misconduct.

The AO concluded, "Based on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, you provided a personal statement that supplied additional clarification of the circumstances of your case. 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 Kurta Memo. 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 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. 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 Kurta Memo, 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, your rehabilitation efforts,

your post-service record of accomplishments, your service to your community, your claimed 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. In addition, 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. 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 rehabilitation efforts, 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,

5/25/2026

