



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

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Docket No. 9635-25
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional on 17 February 2026. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

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 Navy and began a period of active duty on 7 August 1991.
- On 18 January 1992, you began a period of unauthorized absence (UA) which lasted two days and resulted in nonjudicial punishment (NJP) on 24 January 1992. You were counseled for your misconduct and warned that further misconduct may result in your administrative separation processing.

- On 8 August 1992, you began a second period of UA which lasted 36 days and resulted in your missing ship's movement. On 18 September 1992, you received NJP for the misconduct.

- On 2 November 1992, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense; at which point, you decided to waive your procedural rights. Your commanding officer recommended you be separated with an Other Than Honorable (OTH) discharge characterization of service and the separation authority approved the recommendation. On 23 November 1992, you were so discharged.

In your application to this Board, you express a desire for your discharge character of service be upgraded, your rank reinstated, and you receive back pay. You contend that:

- You are seeking an upgrade so that you are afforded all rights, privileges, and benefits associated with service as a wartime veteran during the Gulf War.

- You experienced significant personal hardship when your father suffered severe complications following a surgical procedure.

- You requested a leave extension to attend to your father and it was denied in an unprofessional and dismissive manner.

- Your superior made disrespectful remarks about your father's conditions in the presence of your mother, which led to significant emotional distress and a profound feeling of betrayal.

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 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, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 AO 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 or another mental health condition 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 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 and reinstatement of your paygrade with back pay, 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, the negative effect your discharge has had on your life, your claimed 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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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. Further, 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. Finally, the Board was not persuaded by your arguments the periods of UA and missing ship's movement were somehow justified based on your personal circumstances. 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 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. Based on the same rationale, the Board found no basis to grant your requests for reinstatement of your paygrade or back pay.

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,

5/20/2026

