



Docket No. 9746-25
Ref: Signature Date

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 28 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 this 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, and 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) 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. 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 Marine Corps and began a period of active duty on 26 April 1983. On 29 October 1983, you reported to [REDACTED] for duty.
- On 25 June 1984, you received an administrative remarks (Page 11) counseling concerning your lack of professionalism, responsibility, and maturity. You were provided recommendations for corrective action and further advised that failure to take corrective action may result in administrative separation or judicial proceedings.

- On 8 August 1984, you received non-judicial punishment (NJP) for unauthorized absence (UA) from appointed place of duty.
- On 13 December 1984, you received your second NJP for two specifications of UA totaling 29 days.
- On 15 February 1985, you received a Page 11 retention warning counseling concerning your frequent unauthorized absences, disrespectful in nature, and very poor attitude. You were provided recommendations for corrective action and further advised that subsequent violations of the Uniform Code of Military Justice (UCMJ) or conduct resulting in civilian conviction could result in an administrative separation Under Other Than Honorable (OTH) conditions.
- On 27 February 1985, you received your third NJP for willfully disobeying a lawful order from a superior staff noncommissioned officer.
- On 5 April 1985, you were found guilty by a summary court-martial (SCM) of a period of UA totaling 30 days.
- Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. You were informed of the basis for this recommendation and that the least favorable characterization of service you may receive is Under Other Than Honorable conditions. You waived your right to consult with counsel and to present your case to an administrative discharge board. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Marine Corps with an OTH characterization of service. The separation authority approved the recommendation and directed your administrative discharge from the Marine Corps. You were so discharged on 30 May 1985.

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

- You was 20 years old at the time, drinking very heavily and married to an alcoholic wife. Mentally you were unable to handle your drinking, your spouse, and the Marine Corps.
- It was never explained to you what an early discharge would do to your discharge record. You were also never properly informed of what an Other Than Honorable discharge meant for your record.

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 also 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 a mental health condition, the Board also requested an AO. As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 17 February 2026. 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, available records are 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 a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a 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 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, 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, 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. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. 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,

5/21/2026

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Executive Director

Signed by: ■