



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

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Docket No. 10042-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 27 February 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 an advisory opinion (AO) furnished by qualified mental health provider, which was considered favorable to you.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board for a discharge upgrade. On 12 December 2022, this Board denied your initial discharge upgrade petition. The AO provided as part of your first petition noted that on active duty you were evaluated and received a mental health diagnosis, and that you also reported a history of pre-service mental health concerns you did not disclose when you enlisted. The AO drafter determined that had you disclosed your pre-service mental health treatment, it was possible you would not have been accepted into military service. The AO

drafter concluded by opining that there was evidence of a mental health condition on active duty, and evidence your misconduct could be attributed to a mental health condition. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 for mitigation, the Board noted you did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and no error exists with your Other Than Honorable (OTH) characterization of service.

However, because you raised the issue of mental health, the Board again requested an AO. A licensed clinical psychologist (Ph.D.), reviewed your contentions and the available records and issued an AO on 24 February 2026. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner submitted the following items in support of his claim:

- DD Form 149 statement in support of claim
- Mental health notes from ██████████ noting diagnoses of Bipolar Disorder and a rule-out PTSD
- ██████████ residential facility placement certification (1997)
- ██████████ discharge sheet (1998) noting diagnoses of Bipolar Disorder and "probable" PTSD
- Discharge psychiatric evaluation from ██████████
- Psychiatric evaluation (1998)
- Psychiatric re-evaluation (1998)
- Psychiatric evaluation (1997)
- Records from ██████████
- Labs from ██████████ Laboratory.

There is evidence that the Petitioner was diagnosed with and hospitalized for Bipolar Disorder pre-service¹. Unfortunately, he did not disclose this information during his enlistment physical which would have likely rendered him unfit for duty. Bipolar disorder is a serious mental health condition characterized by extreme mood swings ranging from manic highs to depressive lows that severely impact judgment and impulse control. During manic or hypomanic episodes, individuals often engage in risky behaviors, such as reckless spending, sexual indiscretions, or poor decision-making. It is possible that his misconduct in service was driven by his Bipolar Disorder.

The Ph.D.'s AO concluded, "it is my clinical opinion that there is sufficient evidence of a mental health condition that existed in service. There is sufficient evidence to attribute his misconduct to a mental health condition (Bipolar Disorder)."

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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your pre-service medical evidence. Additionally, the Board found sufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. However, even though the Board that your misconduct was attributable to a mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct and apparent fraudulent enlistment 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 Kurta Memo, 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 contentions, the totality of your service, 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 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 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. Further, the Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of

¹ You enlisted in the Marine Corps on 31 January 2001. You provided medical evidence that pre-dates your enlistment.

facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Marine's enlistment eligibility. The Board unequivocally determined you fraudulently enlisted when you clearly intentionally failed to disclose your extensive pre-service mental health counseling and treatment history, which included, *inter alia*, diagnosis of bipolar disorder. The Board determined that you had a legal, moral, and ethical obligation to remain truthful on your enlistment paperwork. Had you properly and fully disclosed your entire pre-service mental health history to military recruiting and/or medical personnel, you would have been disqualified from enlisting in the first place. The Board found no injustice based on your fraudulent entry into the Marine Corps and was unwilling to reward your fraudulent actions with a discharge upgrade. 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. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. While the Board is encouraged by your recent improvements and acknowledged the personal difficulties you have endured, ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct.

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,

3/5/2026

