



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

██████████
Docket No. 494-26
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.

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 23 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 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 13 May 1992.
2. On 11 August 1993, you went absent without authorization (UA) from the ██████████ (██████████) and subsequently missed movement on 24 August 1993. On 27 November 1993, you returned by apprehension and were subsequently found guilty at Special Court Martial (SPCM) for violating Uniform Code of Military Justice (UCMJ), Article 86 (UA). You were sentenced to confinement for a period of 45 days and forfeiture of \$400 pay per month for one month. On 7 February 1994, you were released from confinement.

3. On 14 February 1994, you were notified that administrative separation proceedings had been initiated against you on the basis of commission of a serious offense. You waived your rights to consult with counsel and to appear before an administrative separation board. On 17 August 1994, you were discharged with an Other Than Honorable (OTH) characterization of service and a reentry code of RE-4.

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 that formed the basis for your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

However, because you raised the issue of mental health in your personal statement, 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 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 fact your service medical record contained no supporting diagnosis and your post-service medical evidence is temporally remote to your service. 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 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, 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 recent rehabilitation efforts, your diagnosed mental health issues, the circumstances surrounding your misconduct, 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. The Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within

this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. When weighing your extended period of UA and your missing of the ship's movement against your relatively brief and unremarkable period of active duty, the Board determined the mitigation offered by your service was insufficient to outweigh the seriousness of the misconduct. Further, 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. Finally, the Board was not persuaded by your contentions related to your mental health. While the Board acknowledged your current medical condition, the Board was unable to find sufficient evidence to substantiate it had any effect on your conduct at the time. Additionally, the Board also did not find persuasive your arguments regarding the failure of your command or Navy to assist you with your alleged mental health condition at the time. The Board lacked the evidence to support such a finding and found no evidence, other than your statements, to substantiate your allegations. Rather, the Board considered that you were afforded qualified legal counsel as part of your SPCM proceedings and easily could have raised those issues at your SPCM or elected to present them at an administrative discharge board hearing. While the Board understands it was your right not to do either, this type of evidence could have assisted the Board in making a more favorable decision in your case. 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 acknowledged the personal difficulties you have endured and is encouraged that you are now receiving some assistance from the Department of Veterans Affairs, 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 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,

3/9/2026

