



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

██████████  
Docket No. 1562-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your request for reconsideration 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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 14 November 2024. The names and votes of the members of the panel 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 Kurta Memo.

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.

A review of your record shows that you enlisted in the Marine Corps and began active duty service on 15 December 2014. On 7 December 2016, you were questioned by the Naval Criminal Investigative Service (NCIS) concerning your suspected involvement in the use and possession of cocaine. During your questioning, you provided a statement to NCIS admitting to the use of cocaine and marijuana. Subsequently, on 4 April 2017, you received non-judicial punishment (NJP) for wrongful use of cocaine.

On 23 May 2017, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of Misconduct due to Drug Abuse. The notification

advised that if separation was approved, the least favorable description of service authorized would be Other than Honorable (OTH). You were advised of, and waived your procedural rights, including your right to consult with and be represented by military counsel, and your right to present your case to an administrative separation board. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were administratively discharged from the Marine Corps on 2 October 2017 with an OTH characterization of service; your narrative reason for separation is "Misconduct (Drug Abuse)," your separation code is "HKK1," and your reenlistment code is "RE-4B."

In 2021, you petitioned this Board requesting to upgrade your discharge, your reenlistment code, your narrative reason for separation, and your characterization of service. You argued the administrative discharge was unjust. The Board determined that your misconduct, as evidenced by your admission to the wrongful use of a controlled substance on several occasions, outweighed any mitigating factors.

In 2023, you petitioned the Naval Discharge Review Board (NDRB) requesting an upgrade to your characterization of service to Honorable on the bases that your Commanding Officer recommended you be separated with a General (Under Honorable Conditions) characterization of service and that you were diagnosed with a mental health condition while in service that mitigated the misconduct. On 10 April 2023, the NDRB found that the mental health diagnosis did not mitigate your misconduct. However, the NDRB did note you were honest when interviewed by NCIS and worked with them on the investigation regarding drug use in the Battalion. The NDRB also took into consideration the fact that your CO recommended a General discharge and the CO had the most relevant knowledge on you actions before and after your misconduct. Consequently, the NDRB concluded an upgrade to General (Under Honorable Conditions) was warranted; however the narrative reason for separation was to remain misconduct (drug abuse) with a corresponding separation code of HKK1 and re-entry code of RE-4B.

For this petition, you request a medical discharge or retirement stating that you were improperly denied a medical evaluation board (MEB) at the time of separation and that you had a medical condition that made you unfit for continued military service.

In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service, to include whether they qualified you for the military disability benefits you seek. Upon review, the Board disagreed with your rationale for relief. First, the Board determined, while there was evidence you had a mental health condition (MHC) during your military service, the Board found insufficient evidence to establish that your MHC was an unfitting condition. The Board noted, while you were in service, no medical provider found your MHC limiting to your continued service; you were not even placed on limited duty for the condition. Moreover, even if a medical provider would have referred you to a MEB and notwithstanding the NDRB decision to upgrade your characterization of service as a matter of clemency, the Board noted you were ineligible for disability processing since service regulations directed misconduct processing to supersede

disability processing. 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,

1/16/2025

