



Age Group	Percentage of Respondents Vaccinated
18-24	65%
25-34	85%
35-44	95%
45-54	75%

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 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 5 March 2025. 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 Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (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 and your response to the AO.

You enlisted in the Marine Corps and began a period of active duty on 11 September 1978. You subsequently completed this enlistment with an honorable characterization of service on 25 February 1982 and immediately reenlisted. On 10 April 1984, you received nonjudicial punishment (NJP) for unauthorized absence (UA), absence from your appointed place of duty and failure to obey a lawful written order by wrongfully transporting an M16A1 rifle in a privately owned vehicle from the Rifle Range to the [REDACTED] Armory. On 12 April 1984, you were issued a 6105 counseling for deficiencies in your performance and conduct. Specifically, your lack of integrity, self-discipline, demonstrated inability to comply with regulations, "i.e. UA, non-payment of bills, and lack of discipline as demonstrated by over-indebtedness." The

counseling expressly advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for an administrative discharge.

On 13 March 1985, you were issued a 6105 counseling for your lateness in arriving to work, the handling of your financial responsibilities, and not displaying the conduct expected of a noncommissioned officer (NCO). On 13 April 1985, you received your second NJP for wrongful possession and use of cannabinoids (marijuana). On 9 June 1985, you were issued a 6105 counseling for the lack of your handling of your financial responsibilities and support to your spouse and dependents. On 4 December 1985, you received a medical evaluation for drug dependency following a positive urinalysis test of 15 November 1985. You were medically determined not to be physically or psychologically drug dependent. On 15 December 1985, you received your third NJP for wrongful use of cocaine.

Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to drug abuse. 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 (OTH) conditions. You elected your right to consult with counsel. You waived your right 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 Under OTH conditions characterization of service. The separation authority approved the recommendation, and you were so discharged on 16 January 1986.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, letter dated 17 June 1994, based on their determination that your discharge was proper as issued.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge character of service and contentions that: (1) you made poor decision to start using substances during your second enlistment to cope with stressors of military life, (2) you have been punished by NJP and have lived with the stigma of a misconduct-related discharge for nearly 40 years, therefore, you have paid for your misdeeds, (3) you have accepted responsibility for your decision to use alcohol and marijuana, (4) over time the relative severity of your misconduct has changed, (5) presently, a command would likely do more to rehabilitate a Marine in circumstances like yours before discharging him, (6) you have been diagnosed with PTSD, (7) your offenses were completely non-violent, (8) you served your first period of enlistment with incident and your post-conviction conduct has been exemplary, and (9) your involvement with substances such as alcohol and marijuana were informed by your youth and inexperience. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

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 29 January 2025. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. In Service, he denied problematic alcohol and substance use, despite behavior that indicated there may have been an issue. His lack of mental health diagnosis assigned in service was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician.

Post-service, he apparently received treatment for alcohol and substance use and has apparently maintained successful abstinence. The Petitioner has also provided evidence of diagnoses of PTSD and other mental health conditions that are temporally remote to his military service and appear unrelated. 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, "it is my 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 to attribute his misconduct to a mental health condition, other than a possible alcohol or substance use disorder."

In response to the AO, you provided a personal statement with additional information regarding the circumstances of your case and additional medical evidence. As a result, the AO conclusion was revised to "there is post-service evidence from a civilian provider of diagnoses of PTSD and other mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition, other than a possible alcohol or substance use disorder."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evident by your NJPs and counseling warnings, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Additionally, the Board noted that marijuana and cocaine use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also considered the likely negative effect your misconduct had on the good order and discipline of your unit. Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to a mental health condition, other than a possible alcohol or substance use disorder. As the AO explained, unfortunately, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with your misconduct. Furthermore, the provided evidence of a diagnosis of PTSD and other mental health conditions are temporally remote to your military service and appear unrelated. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions. The Board found that your misconduct was

intentional and made you unsuitable for continued naval service. Finally, your unit was under no obligation to send you to alcohol or drug rehabilitation treatment unless it was determined, by competent medical authority, that you were dependent. There is no documentation in your record that shows you were alcohol or drug dependent.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. 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.

In reviewing your record, the Board noted that you may be eligible for veterans' benefits which accrued during your prior period of honorable service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (VA). In this regard, you should contact the nearest VA office concerning your rights, specifically, whether or not you are eligible for benefits based on your prior period of honorable service.

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,

3/19/2025

