



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

██████████  
Docket No. 9397-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 17 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 the 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 (PTSD) (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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

During your enlistment processing you disclosed a history of marijuana use and minor traffic violations. An enlistment waiver was granted for the minor traffic violations. You enlisted in the U.S. Marine Corps (USMC) and began a period of active duty on 1 July 1981. From 22 January 1982 to 18 December 1982, you received three nonjudicial punishments (NJP) for two specifications of unauthorized absence (UA) totaling 10 days, quitting your post without being properly relieved, and the wrongful use of marijuana. You were counseled on multiple occasions regarding these infractions. Some of the administrative counseling remarks warned that you were being retained in the USMC but that continued deficiencies in your performance and/or conduct could result in further disciplinary action and possible administrative separation. From 29 May 1983 to 18 November 1983, you served as part of the Multinational Peacekeeping Force in Beirut, Lebanon. During this assignment, you were counseled several times concerning

drug involvement, poor performance and attitude, and the importance of alertness while on perimeter duty.

On 23 September 1983 and 12 March 1984, you received your fourth and fifth NJPs for sleeping on post and a 10-day UA, respectively. Following your fourth NJP, additional administrative remarks were issued; retaining you in the USMC, documenting the infraction of sleeping on post, and reiterating that further misconduct could result in disciplinary action and administrative discharge proceedings. After your fifth NJP, you were notified that you were being recommended for administrative discharge from the USMC for pattern of misconduct; at which time you waived your right to consult with counsel and to present your case to an administrative discharge board. The commanding officer forwarded your administrative discharge adding, “[Petitioner] is a disciplinary problem and an administrative burden to this Battalion. He does not possess the motivation or desire to become a productive Marine. Rehabilitation through counseling has not changed this Marine’s attitude or performance and his value to the service remains unsatisfactory.” The SA directed your Other Than Honorable (OTH) discharge from the Marine Corps by reason of misconduct due to pattern of misconduct and you were so discharged on 25 May 1984.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 and your contentions that: (1) you were recently diagnosed with PTSD/depression resulting from extensive combat exposure during your deployment to Beirut, (2) you have endured this condition for 40 years but only recently sought professional treatment, and (3) in 1984, there was limited awareness and understanding of PTSD, and as a result, no formal treatment was available at the time. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

Based on your assertions that you incurred PTSD and other mental health issues from military service, which may have contributed to the circumstances of your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO. 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. Temporally remote to his military service, he has received a diagnosis of PTSD from a VA clinician. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct, given his history of UA prior to his deployment to Lebanon. 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 some post-service evidence from a VA clinician that a diagnosis of PTSD may be attributed to military service. There is insufficient

evidence to attribute his misconduct to PTSD or another mental health condition related to military service.”

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it included a drug offense. 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. Further, 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. Additionally, the Board concurred with the AO there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service or your misconduct. As explained in the AO, your post-service diagnosis of a mental health condition is temporally remote to your military service and there is no evidence you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Finally, the Board agreed that is difficult to establish a nexus between your post-Beirut deployment conduct and a mental health condition given your extensive pre-service and pre-deployment record of misconduct.

As result, the Board determined that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service. While the Board carefully considered the evidence you submitted in mitigation, 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.

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

4/3/2025

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