



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

██████████  
Docket No. 9517-24  
Ref: Signature Date

████████████████████  
████████████████████  
████████████████████

Dear ██████████

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 24 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.

You enlisted in the U.S. Marine Corps after being granted an enlistment waiver for pre-service marijuana use and began a period of active duty on 1 March 2004. Between 26 October 2004 and 21 April 2005, you received multiple formal counselings for a series of infractions that included failure to shave, failure to properly prepare your wall locker for inspection, failure to mark uniform items, a prior liberty incident, failure to return to camp before 2400, failure to carry your liberty card, your involvement in a confrontation with another Marine, and damaging government property by punching two hatches in the barracks. On 10 May 2005, you received nonjudicial punishment (NJP) for four specifications of violating a written order.

From 29 August 2005 to 7 March 2006, you deployed in support of Operation ██████████. Subsequently, on 24 May 2006, you were diagnosed with Alcohol Use Disorder. On 17 July 2006, you were terminated from Intensive Outpatient Treatment due to your inability to acknowledge alcohol as a problem and consuming alcohol during treatment.

On 9 June 2006 and 4 October 2006, you received NJP for multiple offenses that included insubordination toward a noncommissioned officer, provoking speeches or gestures, assault, disorderly conduct, drunkenness, unauthorized absence from a substance abuse control appointment, failure to attend a mandated counseling appointment, consuming alcohol while on restriction, and making a false official statement. Consequently, you were notified of your pending administrative processing by reason of alcohol rehabilitation failure and pattern of misconduct. Your commanding officer recommended you be discharged with an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were so discharged on 13 December 2006.

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 developed a drinking problem after Iraq, (2) 90% of your disciplinary issues were alcohol related, and (3) subsequently you were diagnosed with PTSD and other mental health concerns; which contributed to your separation. 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 concerns during military service, which may have contributed to the circumstances of your separation, 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:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His alcohol use disorder diagnosis 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. Temporally remote to his military service, the VA has granted service connection for PTSD attributed to combat exposure. Unfortunately, available evidence is not sufficiently detailed to establish a nexus with his misconduct, given misconduct prior to his combat deployment that continued after his return. 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 post-service evidence from the VA 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."

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 concluded that it showed a complete disregard of 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 concluded with the AO that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As the AO explained, your post-service diagnosis for PTSD is temporally remote to your military service and the available evidence is not sufficiently detailed to establish a nexus with your misconduct; particularly given your record of misconduct prior to your combat deployment. Therefore, the Board concluded 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 and commends you for your post-discharge rehabilitation, 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. 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,

4/8/2025

