



Docket No. 9987-24  
Ref: Signature Date

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 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 4 April 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, 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)/mental health condition (MHC) (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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Marine Corps and began a period of active duty on 16 October 1984. After testing positive on a urinalysis for marijuana upon your arrival to basic training, you admitted to using marijuana twenty times. You were recommended for administrative separation by reason of defective enlistment but retained in by the separation authority.

On 1 December 1985, you commenced a period of unauthorized absence (UA) that ended with your surrender on 13 December 1985. On 13 January 1986, you received non-judicial

punishment (NJP) for your period of UA. You were counseled regarding your misconduct and warned that further misconduct could result in administrative separation processing. On 17 January 1986, you commenced another period of UA that ended with your surrender on 31 January 1986. On 7 February 1986, you NJP for your period of UA. You were again counselled regarding your misconduct and warned that further misconduct could result in administrative separation processing.

On 20 February 1986, your first sergeant reported your lack of motivation and desire to continue in the Marine Corps. Consequently, you were notified that you were recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. You waived your right to consult with counsel and 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 Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were so discharged on 13 March 1986.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 15 May 1992, after determining 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 Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge character of service and contentions that: (1) as a disabled ■ fire fighter, you are requesting an upgrade to receive veterans' benefits that were unjustly denied over the years, (2) you missed your opportunity to received proper medical and mental health services due to unfair treatment, abuse, and racism, (3) you believe some of your medical conditions can be traced back to the Marine Corps, and (4) an upgrade to your discharge will allow you to receive medical assistance for your overall health and well-being. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

Because you contend that a mental health condition impacted your misconduct, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. He submitted post-service medical documentation related to orthopedic conditions, and did not submit any evidence of mental health issues. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his requested change for narrative reason for separation. Additional records (e.g., active-duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

The AO concluded, “it is my considered clinical opinion there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence that his misconduct could be attributed to a mental health condition.”

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that 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 your misconduct 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. Further, the Board noted you provided no evidence, other than your statement, to substantiate your contention of mistreatment by the Marine Corps. Contrary to your allegation, the Board noted that you were counseled multiple times on how to seek assistance through your chain of command and even allowed to remain in the Marine Corps after you fraudulently enlisted by failing to disclose an extensive history of preservice drug abuse. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits or enhancing educational or employment opportunities.

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, 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 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,

4/28/2025

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Executive Director

Signed by: ■