



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

██████████  
Docket No. 10901-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session, on 2 June 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

You previously applied to this Board for a discharge upgrade and were granted partial relief on 21 July 2021. At that time, the Board upgraded your discharge to General (Under Honorable Conditions) (GEN) and changed your narrative reason for separation to "Secretarial Authority," your separation authority to "MARCORSEPMAN par. 6214," and your separation code to "JFF1."

You most recently applied to this Board for an additional discharge upgrade and were denied on 17 June 2024. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

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 Memo. These included, but were not limited to, your desire to upgrade your discharge characterization and your contentions that you were, and still are, suffering from PTSD from MST that occurred in service in 1999. You state, after 24 years, you have finally been able to seek treatment for your issues. You additionally state you were sexually assaulted at 29 Palms by a physical therapist while receiving treatment in service following a knee injury, and that you did not report this assault in service due to fear, shame, guilt, depression, substance abuse, suicide ideation, and insanity. Lastly you state, prior to 1999, your service was meritorious. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the new evidence you provided in support of it.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 7 March 2025. The AO noted 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 did not mention any extenuating circumstances during any of his administrative proceedings or during 2012 NDRB that suggested his misconduct was due to a mental health condition. He submitted evidence of a PTSD diagnosis that is temporally remote to service. 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 clinical opinion that there is insufficient evidence of a mental health condition that occurred in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, you provided additional information regarding your application. After a careful review of your rebuttal evidence, the AO remained unchanged.

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 non-judicial punishment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that occurred in service, and insufficient evidence to attribute your misconduct to a mental health condition. As the AO noted, there is no evidence that you were diagnosed with a mental health condition during service or that you exhibited any

psychological symptoms or behavioral changes indicative of a mental health condition. Lastly, the Board opined you were already afforded clemency when the Board previously upgraded your discharge to GEN and changed your reason for separation to reflect a Secretarial Authority discharge. The Board determined any injustice in your record was adequately addressed by the Board's previous grant of relief and concurred with its most recent decision that no additional relief is merited.

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. 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,