



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

██████████
Docket No. 11337-24
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, and 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) (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.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously petitioned this Board for a discharge upgrade and were denied relief on 1 April 2022. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 change your discharge characterization of service and narrative reason for separation. You contend that you are a ██████████ veteran who served in the Marine Corps from 24 June 1998 through 12 March 2001, you suffer from service connected Conversion Disorder that resulted in frequent and extensive hospitalizations during service, despite being recommended multiple times for medical separation, your condition caused you to engage in behavior that resulted in discipline, and this resulted in an Other Than Honorable (OTH) discharge. You further contended you were subjected to overt racism within your unit, particularly by your first sergeant, who foretold you would be retaliated against for your complaints of discrimination. You lastly contend that justice requires your discharge status be upgraded to Honorable; reflective of the status you would have received had your medical discharge been timely processed. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the 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 11 March 2025. The AO noted in pertinent part:

During military service, the Petitioner was properly evaluated and diagnosed with Mental health concerns, including Conversion Disorder. Conversion Disorder refers to a series of neurological symptoms that are not explained by medical evaluation. The onset of symptoms can be marked by trauma or stress, such as bereavement, relationship, or occupational problems. However, co-occurring substance use disorders are not commonly associated with a Conversion Disorder. Additionally, during his military service, the Petitioner denied marijuana use. He claimed that his misconduct was solely due to retaliation by his command after he reported racial discrimination and other abusive practices. Although the Petitioner's provider has expressed the opinion that UA may be attributed to Conversion Disorder, it is difficult to attribute his misconduct to a mental health condition. Previously, the Petitioner attributed his UA to problems with his unit and at home and that, when he was unable to make a lateral move away from his leadership, he "went UA and smoked marijuana just to try to get out." This description of his reasoning for UA is inconsistent with a fugue state that might be expected if his UA were related to a Conversion Disorder.

The AO concluded, "there is in-service and post-service evidence of a mental health condition (Conversion Disorder) that may be attributed to military service. There is insufficient evidence to attribute the Petitioner's misconduct to a mental health condition, other than substance use disorder."

In response to the AO, you provided rebuttal evidence challenging its content. After a review of your rebuttal evidence, the AO was modified to state, "there is insufficient evidence to attribute the Petitioner's misconduct to a mental health condition, other than possible 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 evidenced by your three non-judicial punishments and summary court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness and repetitive nature 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. The Board also 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 and determined that although there is in-service and post-service evidence of Conversion Disorder that may be attributed to your military service, there is insufficient evidence to attribute your misconduct to anything other than substance use disorder. As the AO noted, although your provider expressed the opinion your UA may be attributed to Conversion Disorder, it is difficult to attribute your misconduct to a mental health condition, particularly since you previously attributed your UA to problems with your unit and at home, and that you went UA and smoke marijuana just to try to get out of the Navy. 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 not be held accountable for your actions. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by any mental health conditions

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 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,

6/17/2025

