



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

██████████  
Docket No. 12155-24  
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.

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). Your request has been carefully examined by a three-member panel of the Board, sitting in executive session, on 28 May 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 5 December 1994. Upon entry onto active duty, you admitted to illegal use of marijuana while in the Delayed Entry Program. On 12 February 1997, you were found guilty at a special court-martial (SPCM) for three specifications of wrongful use of marijuana. You were sentenced to confinement, reduction in rank, and a Bad Conduct Discharge (BCD). After completion all levels of review, you were so discharged on 29 June 1998.

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 Memos. These included, but were not limited to, your desire for a discharge upgrade to obtain veterans' benefits and contentions that during your enlistment obtaining assistance or admitting issues due to mental health conditions or PTSD were discouraged, enlisted staff made it clear that Marines were not to show weakness, and the discharge you received was inequitable and unjust due to the policy changes applicable to Marines with mental health issues and the lessening of severity of marijuana use. You believe there is substantial doubt that your misconduct would result in the same sentence today. You also contend that a full assessment of your mental health and possibility of PTSD at the time was not completed. Lastly, you contend your first three years of service you were a model Marine. For purposes of clemency and equity consideration, the Board considered the totality of your application including your supporting evidence.

As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO dated 4 April 2025. The Ph.D. stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Throughout his military processing, there were no concerns raised of a mental health condition that may have warranted a referral for evaluation. Temporally remote to his military service, he has received diagnosis and treatment from civilian providers for chronic mental health concerns that appear unrelated to his military service. However, he has provided a personal statement indicating that his mental health concerns may be attributed to military experiences. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct, particularly given pre-service substance use. 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, "There is some post-service evidence from civilian providers of diagnoses of PTSD and other mental health concerns. There is post-service evidence from the Petitioner that his mental health diagnoses may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

After thorough review, the Board concluded that your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included multiple drug offenses. 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 that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As explained in the AO,

temporally remote to your military service, you have received diagnosis and treatment from civilian providers for chronic mental health concerns that appear unrelated to your military service. Additionally, available records are not sufficiently detailed to establish a nexus with your misconduct, particularly given pre-service substance use. 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 and commends you on 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. 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,

6/13/2025

