



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

██████████  
Docket No. 12199-24  
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 evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 25 July 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 this 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider and your AO rebuttal submission.

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 enlisted in the U.S. Marine Corps and began a period of active duty service on 8 August

1989. Your enlistment physical examination, on 28 February 1989, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

On 4 January 1991 you commenced an unauthorized absence (UA) that terminated on 13 January 1991. On 16 January 1991, you received non-judicial punishment (NJP) for your 9-day UA. You did not appeal your NJP.

On 12 June 1991, you received NJP for: (a) UA, (b) failing to obey a lawful order/regulation, (c) operating a vehicle under the influence of alcohol, and (d) drunk and disorderly conduct. You did not appeal your NJP. On 24 June 1991, your command issued you a "Page 11" retention warning (Page 11) documenting your alcohol-related incident.

On 27 June 1991, pursuant to your guilty pleas, you were convicted at a Summary Court-Martial (SCM) of: (a) four (4) separate UA specifications, and (b) breaking restriction. The SCM Officer sentenced you to a reduction in rank to the lowest enlisted paygrade (E-1), confinement for thirty (30) days, and forfeitures of pay. On 1 July 1991, the Convening Authority (CA) approved the SCM sentence as adjudged but suspended a portion of the forfeitures.

On 10 September 1991, your command issued you a Page 11 warning concerning your pattern of misconduct. The Page 11 advised you that any further deficiencies in your conduct could result in an administrative separation under other than honorable conditions (OTH) or limitation on further service.

On 18 September 1991 the suspended portion of the SCM sentence was vacated and ordered executed due to continuing misconduct. On the same day, you received NJP for: (a) two (2) separate UA specifications, (b) failing to obey a lawful order by driving on base while on base revocation, (c) failing to obey a lawful order/regulation by being in possession of an unregistered, loaded .38 caliber pistol on board ██████████, and (d) making a false official statement. You did not appeal your NJP.

On 11 October 1991, you commenced a UA that terminated on 15 October 1991. On 27 December 1991, you commenced a UA that terminated on 2 January 1992.

On 6 January 1992, you were convicted at a Special Court-Martial (SPCM) of: (a) three (3) separate UA specifications, and (b) the destruction of U.S. Government property. The Court sentenced you to confinement for thirty (30) days, forfeitures of pay, and to be discharged from the Marine Corps with a Bad Conduct Discharge (BCD). On 21 April 1992, the Convening Authority (CA) approved the SPCM sentence as adjudged. Upon the completion of SPCM appellate review in your case, on 5 August 1993, you were discharged from the Marine Corps with a BCD and were assigned an RE-4 reentry code.

On 3 September 2021, this Board denied your initial discharge upgrade petition.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Hagel, Kurta, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and

contentions that: (a) you are asking for a discharge upgrade due to mental health/PTSD that originated from your time of service, and some physical/mental health issues that worsened as a result of your time in service, (b) you didn't know your mental health was diminishing until you couldn't keep healthy relationships, and (c) PTSD/mental health/depression have affected you a majority of your life. 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.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO dated 21 March 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided some post-service evidence of a diagnosis of PTSD that is attributed to military service. Unfortunately, there are inconsistencies in his record and his post-service report that raise doubt regarding his candor. It is difficult to attribute his misconduct to PTSD or another mental health condition, particularly given the nature of his misconduct.

The Ph.D. concluded, "There is some post-service evidence from a civilian provider that the Petitioner may have a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

Following a review of your AO rebuttal submission, the Ph.D. modified the conclusion to state, "There is some post-service evidence from a civilian provider and the VA that the Petitioner may have a diagnosis of PTSD that may be attributed to military service. However, there is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any mental health conditions and/or related symptoms and your misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the serious misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also 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.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 3.3 in conduct. Marine Corps regulations in place at the time of your discharge recommended a minimum trait average of 4.0 in conduct (proper military behavior), for a fully honorable characterization of service. The Board concluded that your cumulative misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your serious misconduct and a failure to conform to basic military standards of good order and discipline, all of which further justified your BCD characterization.

The Board also noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing a characterization of discharge, even one awarded by a court-martial. However, the Board concluded that despite your contentions this was not a case warranting any clemency as you were properly convicted at a SPCM of serious misconduct. The Board determined that characterization with a BCD appropriate when the basis for discharge is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine

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 in 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 cumulative 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,

7/29/2025

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