



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

██████████
Docket No. 12270-24
Ref: Signature Date

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Dear ██████████

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 19 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 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 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

During your enlistment processing, you responded "No" to questions regarding whether you had ever received counseling of any type or been evaluated or treated for a mental condition. You enlisted in the U.S. Marine Corps and commenced a period of active duty on 6 June 2005. On 28 December 2005, you were arrested and formally charged by the State of ██████████, County of ██████████, with second-degree burglary and criminal mischief involving property damage exceeding \$15,000, related to the destruction of property at ██████████ College. Consequently, you were notified of your pending administrative processing by reason of commission of a serious offense; at which time you waived your right to consult with counsel and to have case heard before an administrative discharge board. Subsequently, the separation authority directed you be

discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 10 March 2006.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 to upgrade your discharge and your contentions that: (1) your request is based on the presence of a pre-existing mental health condition (PTSD) that may have been exacerbated by in-service medical injury that may have contributed to you in-service misconduct, (2) your mother murdered your father when you were seven years old; a traumatic event that led to a diagnosis of PTSD at that time, (3) medical evaluations revealed significant damage to both your amygdala and prefrontal cortex—findings which, according to your therapist, are consistent with the long-term effects of severe childhood trauma, (4) the trauma significantly contributed to the misconduct that led to your discharge, (5) a few months after your arrest, you entered into a plea agreement and pleaded guilty in exchange for the dismissal of most charges and a lenient sentence; which resulted in probation, (6) post-discharge, you faced considerable challenges but eventually secured stable employment, married, and are now raising two children with your wife, and (6) you have maintained a law-abiding life, became a homeowner, and remain a responsible, tax-paying citizen. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

Based on your assertions that you suffered from symptoms of Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to the circumstances of your separation, a qualified mental health professional reviewed your request for correction of your record and provided the Board with an AO. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. He has submitted evidence of treatment for PTSD from childhood trauma. There are some inconsistencies with respect to his treatment timeline that raise doubt regarding his candor or the reliability of his recall. Upon entry into military service, the Petitioner denied a history of mental health counseling, but he submitted a statement from his purported therapist who stated that he received treatment for PTSD in childhood. Although it is possible the Petitioner may have been experiencing mental health concerns during military service due to his childhood experiences, it is difficult to attribute his misconduct to symptoms of undiagnosed PTSD. 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 evidence from a civilian mental health provider that the Petitioner may have been experiencing symptoms of PTSD during military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your arrest for burglary and criminal mischief, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that

it showed a complete disregard for military authorities and regulations. Additionally, the Board considered the likely discrediting effect your arrest had on the Marine Corps. Finally, 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, it is difficult to attribute your misconduct to symptoms of PTSD given the inconsistencies in your treatment timeline and your denial of any history of mental health counseling at the time of your enlistment. The Board agreed that this raises doubt regarding the reliability of your recall and your overall candor in this matter. Therefore, the Board concluded your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

While the Board carefully considered the evidence you submitted in mitigation and commends you for your rehabilitation efforts and post-discharge accomplishments, even in light of the Kurta, Hagel, and Wilkie Memo and reviewing the record 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 the 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, _____

5/28/2025

