



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

██████████
Docket No. 316-25
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). A three-member panel of the Board, sitting in executive session, considered your application on 22 August 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) (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. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 18 April 1976. Your pre-enlistment physical examination, on 24 March 1976, and self-reported medical history both noted no psychiatric or neurologic issues, history, conditions, or symptoms.

On 22 August 1976, you commenced a period of unauthorized absence (UA). Your command declared you to be a deserter and dropped you from the rolls. While in a UA status, civilian authorities in ██████████, ██████████ arrested you, on 7 September 1976, and charged you

with burglary. On 14 November 1975, you were convicted of the burglary charge and sentenced to 180 days of confinement and four years of probation. Following your release from civilian confinement, your UA ultimately terminated, on about 31 January 1977, with your return to military authorities; a period of 162 days.

On 14 April 1977, pursuant to your guilty plea, you were convicted at a Special Court-Martial (SPCM) of your 162-day UA. The Court sentenced you to forfeitures of pay and confinement at hard labor for ninety (90) days. On 8 June 1977, the Convening Authority approved the SPCM sentence as adjudged, except suspended any confinement for a period of six (6) months.

On 4 January 1978, you received non-judicial punishment (NJP) for two (2) separate UA specifications. You did not appeal your NJP.

On 14 September 1978, you received NJP for another UA. You did not appeal your NJP. On 17 October 1978, you received NJP for yet another UA. You did not appeal your NJP.

On 5 July 1979, you received NJP for disrespect to a superior commissioned officer and another UA. You did not appeal your NJP.

Your separation physical examination, on 12 September 1979, noted no psychiatric or neurologic issues, history, conditions, or symptoms. Ultimately, upon the completion of your required active service, you were separated from the Marine Corps with a General (Under Honorable Conditions) ("GEN") discharge characterization and transferred to the Marine Corps Reserve on 27 September 1979.

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 and contentions that: (a) at the time of your discharge you were heavily addicted to alcohol and later diagnosed with PTSD for which you undergo treatment at a local Department of Veterans Affairs clinic, (b) your understanding was that your discharge was Honorable, and you did not know that "UHC" was a GEN discharge characterization, and (c) you were told at the time of your discharge that it would be upgraded within six (6) months. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 and DD Form 214 without any additional documentation for the Board's consideration.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 18 May 2025. As part of the Board's review, the Board considered the AO. The AO stated 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 submit any medical evidence in support of his claim. His personal statement is

not sufficiently detailed to provide a nexus between his claimed mental health condition and in-service misconduct.

The Ph.D. concluded, “it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition.”

After thorough review, the Board concluded these potentially mitigating factors and contentions 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 that you suffered from any type of mental health condition while on active duty, or that any such mental health condition was related to or mitigated the misconduct documented in your record. 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 cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. 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 noted that you were fortunate to have been allowed to complete your required active service and receive a GEN discharge. The Board noted that at any point following either your civilian conviction and/or SPCM conviction, you were eligible to be administratively separated under Other Than Honorable conditions (OTH). Regarding your specific claim that you believed your GEN characterization would be upgraded with six (6) months, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified period of time.

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 3.44 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 noted that your record included significant misconduct consisting of a SPCM conviction, civilian conviction for burglary, and four (4) NJPs. 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 repeated failure to conform to basic military standards of good order and discipline; all of which further justified your GEN characterization and no higher.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that GEN or OTH characterization is appropriate when the basis for separation 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 assigned characterization of service. 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,

8/26/2025

