



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

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Docket No. 817-25  
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 29 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 a qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

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 19 April 1967. You listed your home of record at the time of your enlistment to be █.

On 24 July 1967, you received non-judicial punishment (NJP) for an unauthorized absence (UA). You did not appeal your NJP.

On 16 September 1967, you commenced a period of UA during which your command declared you to be a deserter. Your UA terminated with your arrest by the FBI on 20 November 1967.

On 23 November 1967, you escaped from the █ in █. Your command again declared you to be a deserter. Your UA terminated with your arrest by the FBI on 11 April 1968.

On 25 April 1968, you were convicted at a Special Court-Martial (SPCM) for: (a) escaping from custody and (b) your two (2) separate UA offenses totaling 205 days. The Court sentenced you to confinement at hard labor for six (6) months and forfeitures of pay for six (6) months. On 28 May 1968, the Convening Authority (CA) approved the SPCM sentence as adjudged, except suspended any confinement and forfeitures in excess of three (3) months.

On 11 July 1968, you commenced another UA during which your command declared you to be a deserter. Your UA terminated with your arrest by the FBI on 15 August 1968. Due to your continued misconduct, on 21 August 1968, the CA vacated the suspended portion of your first SPCM and ordered it executed.

On 4 September 1968, you were convicted at a second SPCM for your 35-day UA. The Court sentenced you to confinement at hard labor and forfeitures of pay each for six (6) months, and to be discharged from the Marine Corps with a Bad Conduct Discharge (BCD).

On 1 October 1968, the CA suspended the remaining portion of the unexecuted sentence from your first SPCM. On 22 November 1968, the CA approved the second SPCM sentence as adjudged, except suspended the BCD and the unexecuted portion of any confinement. On 28 February 1969, the U.S. Navy-Marine Corps Board of Review approved the findings and sentence from your second SPCM.

On 31 May 1969, you commenced another UA during which your command you to be a deserter. Your UA terminated with your arrest by civilian authorities on 3 December 1969.

On 7 December 1969, you commenced another UA during which your command again declared you to be a deserter. Your UA terminated with your arrest by civilian authorities on 8 June 1973.

On 5 July 1973, you commenced yet another UA during which your command declared you to be a deserter. Your UA terminated with your arrest by federal authorities on 3 April 1975.

On 8 July 1975, the CA vacated your suspended BCD and ordered it executed due to your continuing misconduct. Ultimately, on 23 July 1975, you were discharged from the Marine Corps with a BCD and assigned an RE-4 reentry code.

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 your

contentions that: (a) your discharge was improperly classified because your behavior was inaccurately described during that time, (b) while stationed at Camp Pendleton you were faced with racism, discrimination, unfair treatment due to your illiteracy, and threats of physical and emotional harm from your senior drill instructor (DI), (c) every day you became more angry and scared of the repercussions of doing or saying the wrong thing, (d) the scrutiny that came from your DI's leadership caused you severe depression and physical pain, (e) you decided to go AWOL because it became unbearable for you to continue to stay and be treated with disrespect and abuse, (f) your decision to go AWOL was only made out of fear and hopelessness, and (g) if granted an upgrade, this could provide you with a chance to establish a career and receive the medical care you need. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 6 June 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 suffered from a mental health condition or that he exhibited any symptoms of a mental health or PTSD while in military service. He submitted evidence of diagnoses of Anxiety Disorder and PTSD that are temporally remote to service. Furthermore, the letter provided by the nurse practitioner does not indicate any nexus between post-service mental health conditions and in-service misconduct. His personal statement is not sufficiently detailed to indicate a relationship between PTSD or any mental health condition and his misconduct.

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

After thorough review, the Board concluded your 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 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 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. Additionally, 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 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 0.41 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 misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your cumulative misconduct.

The Board 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 two SPCMs of serious misconduct and continued to commit serious misconduct after you were awarded a punitive discharge. The simple fact remained is that you left the Marine Corps while you were still contractually obligated to serve and you went into either a UA or deserter status multiple times without any legal justification or excuse during a time of war for a total of approximately 2,340 days. Moreover, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board 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,

9/3/2025

