



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. 1193-25
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 28 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 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional. 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 Marine Corps and commenced active duty on 14 September 1989. You participated in █ and █ from 6 January 1991 to 1 April 1991. On 16 May 1991, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct; specifically, failure to go to your appointed

place of duty. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 26 August 1991, you received non-judicial punishment (NJP) for willfully damaging a privately owned vehicle by kicking the side door mirror and breaking it. On 12 December 1991, you received Page 11 counseling for sleeping at work, poor job performance, and a negative attitude. You were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 9 May 1992, you received Page 11 counseling regarding identification card restrictions due to bad checks issued to Morale, Welfare, and Recreation (MWR). On 2 July 1992, you received Page 11 counseling regarding failure to pay just debts to [REDACTED]. You were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 30 September 1992, you received NJP for disobeying a lawful order, providing false information to a medical officer, and pretending illness to avoid work duty (malingering). On 21 October 1992, you received NJP for unauthorized absence (UA) and two specifications of violating a lawful order by driving on base with privileges revoked.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. On 22 November 1992, you submitted a statement requesting administrative separation; stating that you no longer believed in the service and what it stood for. The separation authority directed your discharge with an OTH characterization of service and you were so discharged on 24 November 1992.

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 to change your discharge characterization of service and your contentions that you were an outstanding Marine for your entire service until you received personal attacks, you were treated unfairly after you wrote to your Senator when you returned from [REDACTED], and you accepted a General (Under Honorable Conditions) (GEN) discharge for your medical issues. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statements, an unsigned supplemental VA claim, advocacy letters, and a letter from a psychiatrist.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 18 June 2025. The AO stated in pertinent part:

Petitioner submitted the following items in support of his claim:

- Congressional Inquiry correspondence
- Statement in Support of Claim
- One character reference letter
- Decision Review Request: Supplemental Claim
- Letter from psychiatrist (March 2025) noting diagnosis of PTSD

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service or that he suffered from any symptoms incurred by a mental health condition. He submitted evidence of a diagnosis of PTSD that is temporally remote to service. Furthermore, the nature and pervasiveness of his misconduct is not typical of that which would be expected to be caused by PTSD. His personal statement is not sufficiently detailed to provide a nexus between any mental health condition and [his] in-service misconduct.

The AO 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 your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command.

Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that existed in service and insufficient evidence to attribute your misconduct to a mental health condition. As the AO indicated, the nature and pervasiveness of your misconduct is not typical of that which would be expected to be caused by PTSD. 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.

Finally, the Board found no evidence to support your contention that you were processed for separation as a result of a medical condition and accepted a GEN characterization of service.

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, 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,

8/12/2025

