



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

██████
Docket No. 1201-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 8 September 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 the 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, 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional on 13 May 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 Reserves and began a period of initial active duty for training on 27 December 1994. On 16 June 1995, you were honorably discharged by reason of

completion of required active duty service. In July 1998, you were counseled on your failure to attend required drills. After you continued to miss drills and failed to make up already missed drills, on 13 January 1999, your commanding officer notified you by letter that you were considered an unsatisfactory participant in the Marine Corps Reserves due to 11 missed drills. You were advised that if unsatisfactory participation continued, you may be subject to assignment to involuntary active duty for 45 days, administrative separation with an Other Than Honorable (OTH) discharge characterization, or reduction in rank.

On 7 February 1999, you were notified of the initiation of administrative separation proceedings by reason of unsatisfactory participation in the Marine Corps Reserves. Subsequently, you decided to waive your procedural rights. On 11 February 1999, your commanding officer recommended an OTH discharge characterization of service by reason of unsatisfactory participation. In his endorsement, he stated in pertinent part:

[Petitioner] has made it clear that he has no desire to fulfill his obligation to the Marine Corps Reserve. [Petitioner] was counseled in July 1998 concerning his UA status and failing to make any attempt to resume a satisfactory drilling status... [Petitioner's] actions have made it evident to this command that he has no intentions of returning to a good drill status, and that he will accept a discharge Under Other Than Honorable conditions.

On 13 April 1999, the separation authority approved and ordered an OTH characterization with an "RE-4" reenlistment code by reason of failure to participate. On 30 April 1999, you were so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire for a discharge upgrade and change to your reentry code to return to government service. You contend that: (a) you believe there was a typographical error as your commanding officer recommended a General (Under Honorable Conditions) characterization, (b) your discharge letters were not signed by your commanding officer, (c) you continued to work full time at the Sheriff Department while also completing the Reserve Academy in the evenings and a job as a security guard, (d) your jobs, along with the commute to ██████████ on drill weekends took a toll on you and increasingly became a burden, (e) you were constantly falling ill to sickness and too frequently showing late to your job at the Sheriff Department, (f) you were reprimanded by your supervisors for showing up to work late, (g) you were dealing with significant challenges within your family, and (h) you are seeking to relocate to the U.S. as a result of your sons' current medical condition. 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.

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. He has provided no

medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his failure to attend drill, particularly given years of successful drill completion with the same purported pre-service undiagnosed mental health concerns. 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 insufficient evidence of a diagnosis of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his failure to drill to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your unsatisfactory participation in the Marine Corps Reserves, 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. You failed to attend certain regularly scheduled weekend drills while you were still contractually obligated to serve without any legal justification or excuse, and that your cumulative absences deemed you an unsatisfactory participant in the Marine Corps Reserves. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Furthermore, the Board noted you provide no evidence, other than your statement, to substantiate your contention that your Commanding Officer recommended a General (Under Honorable Conditions) characterization of service for your discharge. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your service fell well below the minimum standards for a General (Under Honorable Conditions) or Honorable characterization of service.

Further, the Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact you provided no medical evidence in support of your claim. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by a mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion. 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.


Finally, 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 concluded that your misconduct and disregard for good order and discipline clearly merited your discharge¹. 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 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 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,

9/29/2025



¹ In making this finding, the Board determined your assigned reentry code also remains appropriate.