



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. 1262-25
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 Board waived the statute of limitation 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 15 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 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, 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) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Marine Corps after receiving a waiver for self-admitted pre-service drug use of marijuana and cocaine and began a period of active duty on 28 December 2000. You deployed in support of Operation Iraqi Freedom (OIF), although your precise service dates were

not available in your official military personnel file (OMPF), and were awarded the Combat Action Ribbon and the Presidential Unit Citation.

On 1 August 2003, your urinalysis screening results were reported as positive for cocaine metabolites and you accepted nonjudicial punishment (NJP) for a single violation of Article 112a of the Uniform Code of Military Justice (UCMJ). On 15 August 2003, a substance use evaluation assessed that you were substance dependent and recommended residential treatment. On 25 August 2003, your Company Commander submitted a formal letter for consideration with respect to your drug abuse and your previous combat deployment. Specifically, he reported that your stories had changed more than once regarding your use of cocaine and an incident which occurred during OIF; in which you attributed the feelings of guilt that purportedly drove you to self-medicate.

You received residential substance rehabilitation treatment from 17 September 2003 through 14 October 2003; during which you also received therapy for a reported diagnosis of post-traumatic stress disorder (PTSD). The medical notes from your rehabilitation reflect that you persistently re-experienced trauma, demonstrated avoidance and numbing of general responsiveness, were being treated for symptoms of insomnia which included waking every one to two hours due to feeling as though you were still in Iraq, and that you had experienced a duration of symptoms in excess of five months. You were placed on medication to treat your insomnia and your discharge diagnoses included PTSD, cocaine dependence, and nicotine dependence.

On 4 November 2003, you were notified of processing for administrative separation by reason of misconduct due to drug abuse. You elected to voluntarily waive your right to a hearing before an administrative discharge board and, although your Commanding Officer's recommendation for your discharge under Other Than Honorable (OTH) conditions acknowledged that you had used drugs as a way of coping with your actions during OIF, he assessed your drug use as "an extreme error in judgment." Additionally, your Company First Sergeant reported a complete lack of effort following your positive urinalysis and affirmed that your story had changed numerous times regarding your reason for using cocaine. Your separation was subsequently approved as recommended and you were so discharged on 20 February 2004.

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, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge, to change your narrative reason for separation to Secretarial Authority, and to change your reentry code to RE-1. You contend that you experienced mental health challenges and PTSD due to your combat service in Iraq; which ultimately resulted in your self-medication with cocaine due to inability to cope. You allege that you attempted to request help through your chain of command but were treated dismissively and were instead told to "suck it up." You state that you had completed drug rehabilitation and were able to continue fulfilling your military duties prior to being separated. You believe that your service-connected behavioral health injury renders your discharge "procedurally defective and inequitable." You also believe that your characterization of service is unfairly stigmatizing. In support of your contentions and for the purpose of clemency and equity consideration, you submitted a legal brief, a personal statement, and excerpts from your military record.

Because you contend that post-traumatic stress disorder (PTSD) or another mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

In 2013 NDRB document, it is noted, “The NDRB reviewed the Applicant’s service medical record and discovered the Applicant was diagnosed with PTSD related to his combat service in Iraq while on active duty.” It is further noted that the diagnosis was provided while in substance abuse rehabilitation programming in September 2003. The current service record does not contain any of these records, which would be very helpful in formulating an opinion. [Emphasis added] Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion.

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

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug use is contrary to core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that cocaine use in any form is still against current Department of Defense regulations and not permitted for recreational use while serving in the military. Absent reliable evidence of record in mitigation, the Board determined that characterization under OTH conditions is generally warranted for misconduct and 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.

Further, in reviewing your administrative separation, the Board found no evidence of a procedural defect and concluded you were processed in accordance with applicable regulations. Based on your positive urinalysis, admission, and NJP, the Board determined you were appropriately processed for separation due to drug abuse. The fact you may have been medically fit for further service did persuade the Board that an error or injustice exists with your administrative discharge. Service regulations mandate administrative separation processing in substantiated cases of drug abuse and your record documents you waived all your associated rights with the administrative separation processing. Therefore, the Board determined your claim that your separation was somehow procedurally defective or inequitable has no merit.

Additionally, the Board concurred with the AO that, although there is evidence of an in-service diagnosis of PTSD, the available evidence is insufficient to attribute your cocaine use to self-medication due to in-service symptoms of PTSD attributable to your military service. In the absence of medical records addressing the criteria upon which your PTSD was assessed, to include the specific traumatic events which you purportedly experienced, the Board gave significant weight to the formal statements of your Company Commander and First Sergeant regarding the inconsistency in the rationale you provided for your self-medication with cocaine.

Furthermore, the Board observed that you entered service with a drug waiver that included cocaine use, and your in-service use appears, more likely, to be attributable to your pre-service behaviors as opposed to your experience of in-service trauma. 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.

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 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,

9/5/2025

