



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. 1300-25
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 7 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 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 14 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 and began a period of active duty on 20 June 1972. During your enlistment process, you admitted a preservice arrest and charges for receiving stolen goods and possession of a blackjack. On 25 June 1972, you began a period of unauthorized absence (UA) which lasted 10 hours, 45 minutes and resulted in nonjudicial punishment (NJP). On 15 July 1972, you began another period of UA.

On 19 September 1972, you were apprehended by the Federal Bureau of Investigation (FBI) and charged with interstate transportation of a stolen vehicle and assault on federal officers. Subsequently, you were scheduled for pending trials at ██████████, and ██████████. On the same date, you were charged in the U.S. District Court for the ██████████ with the willful assault, resist, oppose, impede, intimidate, and interfere with an agent of the FBI in the performance of his duties. On 10 October 1972, you were charged by the U.S. District Court for the ██████████ with unlawfully and feloniously transport and cause to be transported in interstate commerce from ██████████ to ██████████ a motor vehicle. You were also charged with assault on a federal officer and resisting arrest. Consequently, you were sentenced to confinement, of which a portion was suspended, and placed on three years' probation.

On 12 January 1973, you were notified of the initiation of administrative separation proceedings by reason of conviction by civil authorities; at which point you decided to consult with counsel and requested a case hearing by an Administrative Discharge Board (ADB). Your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of conviction by civil authorities. On 16 February 1973, you were charged with a period of UA totaling 216 days. On 27 February 1973, you decided to waive your right to an ADB. The separation authority approved and ordered an OTH discharge, and you were so discharged on 13 March 1973. Your total time on active duty was two months and 18 days due to your extended period of UA.

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 suffering from PTSD, (b) you are seeking to apply for veterans' benefits. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of the power of attorney you included with your DD Form 149 without any other additional documentation.

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 PTSD or another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service behavior that

appears to have continued in service. It is also difficult to attribute larceny to a mental health condition. 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 PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute the circumstances of his separation from service to PTSD or another 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 NJP, civil convictions, and periods of UA, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely discrediting effect your convictions had on the Marine Corps. When weighing your brief period of active duty against your extensive record of misconduct, the Board found insufficient mitigation evidence to support a change to your discharge characterization of service. Further, 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.

Lastly, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD or a mental health condition. As explained in the AO, you provided no medical evidence in support of your claim and it appears your preservice misconduct continued in service. 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.

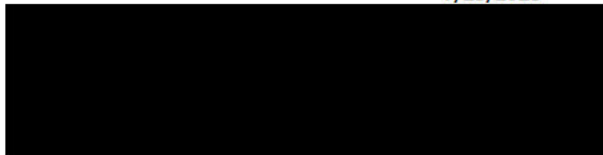
As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, 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 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,

7/23/2025



Executive Director

Signed by: 