



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

██████████  
Docket No. 1308-25  
Ref: Signature Date

████████████████████  
████████████████  
████████████████████

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 limitations 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 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)/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 an advisory opinion (AO) provided by a qualified mental health professional on 16 June 2025. Although you were provided with an opportunity to comment on the AO, you chose not to do so.

You enlisted in the Marine Corps and commenced a period of active duty on 8 July 2002. You admitted to pre-service marijuana use prior to enlistment. On 22 April 2003, you received non-judicial punishment (NJP) for absence from appointed place of duty and failure to take your post. On 21 May 2003, you received NJP for four specifications of absence from appointed place of duty. On 16 June 2003, you received NJP for unauthorized absence (UA) that lasted 20 hours. On 30 September 2003, a special court-martial (SPCM) convicted you of three specifications of failure to go to appointed place of duty, violating a lawful general order, and two specifications of wrongful use of cocaine. You were sentenced to forfeitures of pay, confinement for four months, and a Bad Conduct Discharge (BCD). After completion of all levels of review, you were so discharged on 29 September 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 Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge and contentions that you incurred mental health concerns during military service, became addicted to alcohol and drugs, went UA due to the death of your son, was hazed during your service that made things worse, and never received treatment for your mental issues. You further contend you were a good Marine, received the Good Conduct Medal (GCM), and have been sober for three years. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO. The mental health professional stated in pertinent part:

Petitioner submitted the following items in support of his claim:

- Outpatient mental health records (2016) noting diagnoses of Bipolar Disorder, Mixed with Psychotic Features, History of ADHD, Antisocial Personality Disorder, PTSD, and Polysubstance Dependence by history
- Outpatient Comprehensive Assessment

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 mental health diagnoses that are temporally remote to service and that do not indicate presence in service. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and a mental health condition. 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 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and SPCM, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board also observed you were given several opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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 that there is insufficient evidence of a mental health condition that existed in service. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition during your military service or that you suffered from any symptoms incurred by a mental health condition. You submitted evidence of mental health diagnoses that are temporally remote to service and that do not indicate presence 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. Finally, contrary to your contention, the Board found no evidence you earned the Good Conduct Medal<sup>1</sup>.

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 commends your recent sobriety and 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 mitigated 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

Executive Director

Signed by:

<sup>1</sup> The Good Conduct Medal requires three years of continuous service without receiving NJP or a court-martial conviction. Your total service, with appellate leave included, was less than 24 months and included the aforementioned misconduct. The date shown on your Certificate of Release or Discharged from Active Duty (DD Form 214) in block 18 is referring to the start date of eligibility for the GCM after your SPCM conviction.