



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. 1408-25
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 30 June 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.

You enlisted in the Marine Corps and commenced active duty on 7 May 1963. On 12 May 1964, you received non-judicial punishment (NJP) for eleven hours unauthorized absence (UA) and failure to obey a lawful order. On 9 December 1964, you received NJP for seven days of UA. On 29 December 1964, you received NJP for one day of UA. On 7 January 1965, you were convicted at Summary Court-Martial (SCM) of assaulting a Private by striking him with your fist three times. On 2 March 1965, you were convicted at another SCM of fifteen hours of UA. On 26 April 1965, pursuant to a pre-trial agreement, you pleaded guilty at Special Court-Martial (SPCM) to theft of a man's wedding ring from a jewelry store on 18 March 1965, attempted theft of a two-piece wedding set from a jewelry store on 23 March 1965, two specifications of

wrongful use of another's identification with intent to defraud, and wrongful use of another's liberty pass. You were sentenced to forfeitures, confinement at hard labor, and a Bad Conduct Discharge (BCD). You were released from confinement and returned to your company, on 12 July 1965, pending your request for restoration to duty. While your case was pending review, you received NJP, on 21 July 1965, for failure to obey a lawful order from a Sergeant and failure to pay just debts. Your restoration request was denied on 5 August 1965. On 17 August 1965, you were convicted at a second SPCM of assaulting a Private First Class by unlawfully striking him on the face and body with your hands. You were sentenced to forfeitures and confinement at hard labor. Subsequently, the findings and sentence in your first SPCM were affirmed and you were issued a BCD on 14 September 1965.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 9 August 1979, based on their determination that your discharge was proper as issued.

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, change your medical and service records to reflect you suffered from PTSD, and restoration of any lost benefits. You contend that you were emotionally depleted after you suffered racial discrimination, humiliation, and psychological strain at boot camp and found yourself unable to adapt because of the unresolved trauma you endured. Additionally, you believe exposure to toxic water at Camp Lejeune contributed to your behavior and eventual discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statements, and the psychiatrist letter you provided.

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 1 May 2025. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to the circumstances of his separation.

In June 1965, he was evaluated by a military psychiatrist who diagnosed a moderately severe Personality Disorder with passive-aggressive personality traits. However, as the Petitioner expressed apparent motivation to complete his enlistment, the provider recommended the Petitioner receive another opportunity to return to duty.

Petitioner contended physical and emotional abuse and racial discrimination incurred during military service contributed to PTSD and misconduct. He submitted January 2025 evidence of civilian treatment for diagnoses of PTSD and Major Depressive Disorder since August 2023.

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. The Petitioner has provided evidence of diagnoses of PTSD and other mental health concerns that are temporally remote to his military service and appear unrelated. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct.

The AO concluded, “There is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition, other than personality disorder.”

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, SCMs, and SPCMs, 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 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 and determined that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. The Board agreed that insufficient evidence exists to attribute your misconduct to PTSD or another mental health condition, other than personality disorder. As the AO indicated, the evidence of diagnoses of PTSD and other mental health concerns you provided are temporally remote to your military service and appear unrelated. 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. 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.

As a part of the Caring for Camp Lejeune Families Act of 2012, qualifying Veterans can receive all their health care (except dental care) from Department of Veterans Affairs (VA) if they served on active duty at Camp Lejeune for at least 30 days between August 1, 1953 and December 31, 1987. The Board recommends you contact your nearest VA office to determine your eligibility for care.

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, _____

7/15/2025

