



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

██████████
Docket No. 1606-25
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 11 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, 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 June 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Marine Corps with a waiver and began a period of active duty on 23 April 1991. Upon your enlistment, you admitted underage drinking. Between 9 December 1992 and 3 February 1993, you deployed to ██████████ in support of ██████████. On 20 July 1993, you were counseled concerning the use of illegal drugs, specifically amphetamines, methamphetamines, and marijuana. You were advised that failure to take corrective action could result in administrative separation. On 13 August 1993, you received non-judicial punishment

(NJP) for wrongful use of a controlled substance. On 15 September 1993, you were evaluated by a medical officer and diagnosed with Alcohol Dependency and Cannabis Dependency.

On 22 September 1993, you received a second NJP for wrongful use of a controlled substance-methamphetamine. On the same date, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse; at which point, you decided to waive your procedural rights. Your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service and your administrative separation proceedings were determined to be sufficient in law and fact. Subsequently, the separation authority approved the recommendation and you were so discharged on 5 October 1993.

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) the circumstances surrounding your discharge were attributed to combat PTSD and other mental health issues, (b) while in combat, you engaged enemy combatants at the Port of ██████████, (c) you volunteered for every patrol and was chosen to participate in a trap mission for a downed helicopter during Christmas Eve, (d) you were exposed to enemy small arms fire and mutilated death bodies, (e) you experienced the trauma of death, destruction and facing your own mortality, (f) upon returning from ██████████, you began feeling sensitive to loud noises, easily on the edge, constantly of fight response, isolated, and needed a coping mechanism to combat PTSD symptoms, (g) you informed your chain of command that you needed mental health treatment and admitted to drug abuse, (h) despite your request for assistance, your command provided you none, and (i) you became a father and later checked into rehabilitation to receive mental health treatment. 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 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 post service evidence of diagnoses of PTSD, Anxiety and Major Depressive Disorder; however, the documentation submitted does not specify the rationale for/etiology of the diagnoses. 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 any 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. The Board also 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 OTH discharge. 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. Despite your contention that you were not provided any assistance from your command, the Board noted your commanding officer stated in his endorsement of your administrative separation package, “[Petitioner] has been provided every opportunity to reform his behavior. Following his initial positive test for drug use I spoke at length with [Petitioner]. I insured that this Marine understood the alternatives to drug abuse that were available to him and expressed a personal interest in assisting him. [Petitioner] has elected not to correct his behavior. He did not avail himself of the many resources at his disposal.” Based on these comments, the Board was not persuaded by your contention.

Additionally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to any mental health condition. As explained in the AO, while you submitted post service evidence of diagnoses of PTSD, Anxiety and Major Depressive Disorder, the documentation you submitted does not specify the rationale for/etiology of the diagnoses. 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.

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,

8/27/2025

