



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. 1639-25
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 22 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 to 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.

You enlisted in the Marine Corps and began a period of active duty on 21 July 1999. On 4 June 2002, you were convicted by Summary Court-Martial (SCM) of violating Article 112a due to wrongful use of the controlled substance, marijuana. Although administrative separation processing is mandatory for misconduct due to drug abuse, you instead deployed on 19 March 2003 in support of Operation Iraqi Freedom; during which you received the award of the Combat Action Ribbon (CAR). You also voluntarily extended your period of active duty past your obligated service in order to complete your deployment. Incident to your completion of required active service, you were discharged from active duty with a General (Under Honorable

Conditions) (GEN) characterization of service on 5 September 2003; consistent with the type warranted by your service record.

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 and change your reason for separation, separation code, and reentry code. You contend that your marijuana use was to self-medicate a service-connected medical condition which resulted from a training accident and you also experienced symptoms of post-traumatic stress disorder (PTSD), hypersomnia, sleepwalking, and narcolepsy. You further state you regret your actions this isolated incident during your otherwise exemplary record and request liberal consideration of your mental health contentions. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your disability rating decision from the Department of Veterans Affairs (VA), three character letters, a news article, and a community leadership award for veteran advocacy.

Because you contend, in part, that PTSD or another mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. However, the VA has determined service connection for PTSD, effective from his separation from service. Unfortunately, available records are not sufficiently detailed to provide a nexus with his misconduct, particularly as it was purportedly a circumscribed event which occurred prior to the OIF deployment. 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 post-service evidence from the VA of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct 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 SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. The Board determined that illegal drug use is contrary to Marine Corps values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board noted that marijuana use in any form is still against current Department of Defense regulations and not permitted for recreational use while serving in the military.

Additionally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As explained in the AO, despite your VA service connection for PTSD, the available records are insufficient to provide a nexus between your diagnosed condition and your misconduct. 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.

Finally, the Board determined you already received a large measure of clemency when you were not processed for administrative separation, as required by regulation, and allowed to fulfill your active duty obligation. The fact you were permitted to continue your service afforded you the opportunity to earn a GEN discharge when drug related misconduct typically result in an Other Than Honorable characterization of service.

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 and commends you for your post-discharge accomplishments, 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,

9/10/2025

