



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

Docket No. 1889-25  
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 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 14 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, 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. 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 4 March 1969. On 16 December 1969, you received non-judicial punishment (NJP) for wrongful destruction of government property by neglect. On 26 October 1970, you received NJP for unauthorized absence (UA). You served in [REDACTED] from 22 February 1970 to 9 February 1971. On 28 May 1971, you commenced a period of UA that ended in your surrender on 14 June 1971. On 15 June 1971, you received NJP for the UA.

On 16 December 1971, you commenced a period of UA that ended on 6 January 1972. On

12 January 1972, you received NJP for willful disobedience of a non-commissioned officer and the UA.

On 31 January 1972, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for twenty-one days of UA, UA by leaving appointed place of duty, disobeying a written order by consuming intoxicating beverages before assuming post as a member of a guard, drunken operation of a vehicle, drunk on duty as duty driver, and violating a general order by bringing detonating devices aboard ■■■■■. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your Squadron commanding officer (CO) recommended approval but the Group CO recommended you be tried at Special Court Martial (SPCM). The separation authority concurred with the Group CO and denied your request.

On 21 April 1972, you were convicted at Special Court Martial (SPCM) of UA from 16 December 1971 to 6 January 1972 and sentenced to forfeitures of pay. On 4 October 1972, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 14 October 1972, you and your roommates were the subject of a criminal investigation after marijuana was discovered in your barracks room. You admitted to the purchase, sale, and use of marijuana and expressed preference for combat duty due to more stringent personnel standards on garrison duty. On 3 November 1972, you were convicted at Summary Court Martial (SCM) for failure to properly address and salute a First Lieutenant.

On 7 November 1972, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of frequent involvement of a discreditable nature with authorities and unauthorized use and sale of dangerous drugs. You acknowledged receipt of the letter of notification but refused to indicate whether you were invoking or waiving your rights to consult with counsel, make a statement, or have your case heard by an administrative discharge board (ADB). On 29 November 1972, you were given a psychiatric evaluation and diagnosed with severe sociopathic personality disorder. You indicated that you lied about your age to enter service, engaged in pre-service gang activity and robberies that you did not disclose prior to enlistment, and marijuana use with an intention to continue use. You also relayed homicidal ideations.

On 30 November 1972, an ADB was convened, found that you had committed misconduct, and recommended that you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service. On 22 December 1972, the separation authority disapproved the recommendation and ordered your retention.

On 5 February 1973, you were found guilty of UA at SCM. On 6 February 1973, you were again notified of pending administrative separation processing with an OTH discharge by reason of frequent involvement of a discreditable nature with authorities and unauthorized use and sale of

dangerous drugs. You again only acknowledged receipt of the letter and did not invoke or waive any rights. On 8 February 1973, your commanding officer forwarded a civilian criminal complaint of fornication and bastardy to the separation authority. On 15 February 1973, you waived your rights to consult counsel, make a statement, or have your case heard by an ADB. The separation authority directed your OTH discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities and you were so discharged on 2 March 1973.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. In your application, you indicated in your contentions that you had made false statements to the psychiatrist when you were in service due to stress over being the only one punished in the drug investigation and that you were determined to get out of the service. The NDRB denied your request for an upgrade, on 28 July 1976, based on their determination that your discharge was proper as issued.

You previously applied to this Board where you contended you were very young when you enlisted and that you lied about age/changed your birth certificate to enlist, you served eleven months in combat in ■■■■■, your childhood was disadvantaged and was a factor in your development/behavior, that many of the statements you made to the psychiatrist “were totally false and misleading in my immaturity and disgust with conditions as they existed and affected me at the time, I was determined to get out of the service and this seemed to me to be one of the ways to accomplish it,” you were angry over being the only one punished for drug use when three others were involved, you had good conduct prior to drug use, earned GED in-service, and your CO recommended a GEN in 1972. On 26 April 1978, your case was administratively closed because you had not exhausted all avenues of relief prior to applying to this Board. You were directed to the NDRB as you were eligible for a new review under Public Law 95-126.

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 and your contentions that you became addicted to controlled substances due to your experiences in ■■■■■, have since overcome the addiction, and now lead a more purposeful life. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your statement, the advocacy letters, and professional reference letters 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 29 May 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns during military service, which may have contributed to the circumstances of his separation from service.

Petitioner contended that he incurred mental health concerns after driving an ambulance in ■■■■■. He provided a statement in support of his experience and evidence of character and post-service accomplishment.

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. He has provided no medical evidence to support his claims. His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service.

The AO concluded, “There is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a mental health condition.”

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 SPCM, 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 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.

Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that may be attributed to military service and insufficient evidence that your misconduct may be attributed to a mental health condition. As the AO indicated, you provided no medical evidence to support your claims and your in-service misconduct appears to be consistent with your diagnosed personality disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service. The Board further considered the inconsistencies between your in-service statement regarding illegal drug sale/use and homicidal ideations, your admission of lying about that conduct to effectuate a discharge, and your current contention of mitigation of drug use due to mental health conditions incurred during service in ■. 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 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,

7/31/2025

