



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. 1941-25
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 18 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 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case on the evidence of record.

During your enlistment processing you disclosed civil infractions of forgery and larceny of a check under \$100 (which was subsequently dismissed), and you were granted a civil record waiver. You enlisted in the U.S. Marine Corps and began a period of active duty on 31 July 1967. On 28 January 1968, you deployed to █ in support of combat operations during the

█ conflict. On 14 July 1968, a Summary Court-Martial (SCM) convicted you of sleeping on post and sentenced you to confinement at hard labor for 25 days, forfeiture of \$50.00 pay per month for one month, and reduction in rank to E-1. The convening authority approved the sentence, except that the confinement at hard labor for 25 days was mitigated to 25 days of hard labor without confinement. On 23 July 1968, a second SCM convicted you of two specifications of failing to obey a lawful order, failing to report to the duty non-commissioned officer for extra punitive duties, and for being off limits area after curfew without authorization. You were sentenced to confinement at hard labor for 30 days and forfeiture of \$50.00 pay per month for one month. The convening authority approved only so much of the sentence as provided for 30 days of hard labor without confinement. On 2 September 1968, a third SCM convicted you of neglectfully losing a .45 pistol and of the wrongful appropriation of a .45 pistol. You were sentenced to 30 days of hard labor without confinement for 30 days, forfeiture of \$60.00 pay per month for one month, and 30 days of restriction. The convening authority approved the sentence but suspended the forfeiture of pay for six months. On 26 January 1969, you redeployed from █.

On 13 May 1969 and 18 June 1969, you received non-judicial punishments (NJPs) for sleeping on post and a seven-day period of unauthorized absence, respectively. On 6 August 1969, you signed administrative remarks consenting to be discharged and released from active duty on that date in lieu of completing your normal enlistment; which was scheduled to expire on 30 July 1970.

Unfortunately, the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate or Release or Discharge from Active Duty (DD Form 214) reveals you were separated from the Marine Corps, on 6 August 1969, with a "General (Under Honorable Conditions)" (GEN) characterization of service, narrative reason for separation of "Convenience of the Government," separation code of "411," and reenlistment code of "RE-1."

On 6 March 2019, you were issued a Correction to DD Form 214 (DD Form 215), which reflected your entitlement to the following awards: Combat Action Ribbon (Vietnam), Presidential Unit Citation, Meritorious Unit Commendation, National Defense Service Medal, Vietnam Service Medal (w/1 silver campaign star), Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Color with palm and frame) ribbon bar, Republic of Vietnam Meritorious Unit Citation (Civil Action Color with palm and frame) ribbon bar, Republic of Vietnam Campaign Medal (with 1960 device), and the Rifle Sharpshooter Badge.

The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your request for an upgrade of your discharge, the issuance of awards and decorations that include at least two Purple Heart Medals, correction of any pay or allowances that may have been withheld as a result of court-martial proceedings, restoration of any promotions or ranks previously held during your period of service, and the removal of derogatory information and court-martial convictions from your record. You contend that you incurred mental health issues, including PTSD, during your military service. Specifically, (1) during your first week in █, you sustained an undocumented concussion

when a bomb landed nearby, throwing you several feet and rendering you unconscious, (2) you do not recall the incident that resulted in a second concussion, but it left a visible scar on the right side of your forehead, (3) during a CT scan in 2022, a physician discovered two bullets lodged in zone two of the soft tissue of your neck, (4) when this was brought to your attention, you became emotionally overwhelmed as it triggered memories of being chased, surrounded, captured, and executed by being shot from behind, (5) you recall staggering to cover behind a Buddha statue, and although you do not remember how long you were lost in the jungle, you do recall eating bugs due to hunger, (6) after reviewing your records, you noted that they reflect assignment to █ from 11 May 1968 to 17 June 1968, followed by █ MPs from 19 June 1968 to 23 January 1969, which you assert is proof that you were lost in the jungle for two nights and three days, (7) you state that your traumatic brain injury (TBI) severely impaired your ability to reason, behave in a manner appropriate for a Marine, and even recognize that you had been shot twice, and (8) you believe that the Marine Corps deliberately left you behind to die, and that “the man they left behind was me!” 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.

Based on your assertions that you incurred Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI) during military service, which may have contributed to your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 27 June 2025. 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, Generalized Anxiety and TBI. It is possible that he was suffering from PTSD symptoms during service, however falling asleep on post is incongruent with hypervigilance and exaggerated startle response that would have been expected if suffering from PTSD. Furthermore, stealing is not a typical behavior caused by symptoms of PTSD. Falling asleep could have been caused by TBI symptoms; however, there are no active duty medical records available to review within his service record. Being off limits while in theatre after hours could have been caused by either PTSD or TBI – given symptoms of forgetfulness and/or distractibility. 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 sufficient evidence of diagnoses of a post-service diagnoses of PTSD and TBI. There is insufficient evidence to attribute *all* of his misconduct to PTSD and/or TBI.”

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your SCMs and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for

military authority and regulations. Additionally, the Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your GEN discharge. The Board also determined that 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. Further, the Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would clearly be inappropriate—a standard the Board found was not met in your case. Finally, the Board concurred with the AO that there is insufficient evidence to attribute all of your misconduct to PTSD and/or TBI. As explained in the AO, falling asleep on watch, stealing, and being off limits while in theatre after hours are not behaviors typically caused by either PTSD or TBI. 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. In the end, the Board determined you were fortunate to have received a GEN characterization of service based on your extensive record of misconduct.

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 discharge¹. 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.

Regarding your request for the issuance of awards and decorations, to include at least two Purple Heart Medals, the Board concluded the potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your record and the evidence you provided, including the DD Form 215 issued on 6 March 2019 listing your entitled awards, does not support your entitlement to the Purple Heart Medal. Contrary to your contention that the government is required to prove you were not shot in █, absent substantial evidence to the contrary, the Board relies on a presumption of regularity that government officials properly discharged their duties². After reviewing the evidence you submitted, the Board determined it was insufficient to overcome the presumption in your case. 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

¹ In making this finding, the Board also concluded that there was no basis to grant you any requested relief related to your discharge, NJPs, or SCMs.

² Your record, and the evidence you provided, does not substantiate that you: (1) suffered an injury that qualifies for a Purple Heart Medal, or (2) you were medically treated by a military physician, at the time, for such an injury. Therefore, the Board concluded your record supports the fact you were properly not awarded the Purple Heart Medal.

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,

9/3/2025

