



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

[REDACTED]
Docket No. 1972-25
Ref: Signature Date

[REDACTED]

Dear Petitioner:

This is in reference to your application for correction of your late husband's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of his 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 you¹ 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 19 September 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 28 August 1967. Your pre-enlistment physical examination, on 5 May 1967, and self-reported medical history both noted no psychiatric or neurologic issues, history, conditions, or symptoms. On 28 January 1968, you commenced an unauthorized absence (UA). Your command declared

¹ "You" and "your" shall refer to both you and your late husband, collectively and/or individually, as applicable.

you to be a deserter. Your UA terminated with your arrest by civilian authorities in [REDACTED] and return to military control on 12 March 1968.

On 27 March 1968, you were convicted at a Summary Court-Martial (SCM) for: (a) your 46-day UA, and (b) missing movement of your unit. The SCM Officer sentenced you to confinement for 30 days, forfeitures of pay, and a reduction in rank to the lowest enlisted paygrade (E-1). On 28 March 1968, the Convening Authority (CA) approved the SCM sentence, except later suspended the unexecuted portion of confinement at hard labor on 3 April 1968.

On 14 April 1968, you arrived and disembarked at [REDACTED] On or about 5 May 1969, you departed [REDACTED] after earning several medals including the Purple Heart Medal.

On 17 June 1969, you commenced another UA that terminated on 22 June 1969. On 12 July 1969, you received non-judicial punishment (NJP) for four (4) separate UA specifications, to include your five-day UA. You did not appeal your NJP.

On 11 March 1970, you commenced another UA that terminated on 17 March 1970. On 24 March 1970, you received NJP for your six-day UA. You did not appeal your NJP.

On 24 April 1970, you commenced another UA that terminated on 29 April 1970.

On 7 May 1970, you underwent a psychiatric evaluation. The Medical Officer (MO) diagnosed you with a dissocial personality. The MO noted: "...comes as a self-referral with the complaint that he cannot stand his present billet and that to escape the boredom and stresses he has been 'taking pills' and smoking marijuana. He states that he has been using drugs since coming into the Marine Corps." The MO further noted that there was no evidence of depression, neurosis, and thought disorder, and that your condition did not require hospital admission and was not amenable to psychiatric treatment.

On 14 May 1970, your command formally counselled you for being lacking in certain areas of personal behavior, aptitude, or attitude, casting doubt as to the desirability of your retention in the U.S. Marine Corps. The counselling sheet specifically warned you that continued failure on your part to take the necessary steps to correct your deficiencies will result in a recommendation for your discharge by reason of frequent involvement of a discreditable nature with military authorities, by reason of substandard personal behavior.

On 17 May 1970, you commenced yet another UA that terminated on 18 March 1970. On 9 June 1970, you were convicted at a second SCM for your five-day and one-day UA offenses. The SCM Officer sentenced you to confinement at hard labor for 30 days, forfeitures of pay, and a reduction in rank to Private First Class (E-2). On 26 June 1970, the CA approved the SCM sentence.

On 25 June 1970, your command notified you of administrative separation proceedings by reason of unfitness for your unauthorized polysubstance drug possession and abuse. You consulted with counsel and waived your right to request a hearing before an administrative separation board.

In the interim, on 1 September 1970, you received NJP for: (a) larceny of the wristwatch of an E-4 Marine, and (b) breaking restriction. You did not appeal your NJP.

On 2 October 1970, the Staff Judge Advocate for the Separation Authority (SA) determined that your administrative separation proceedings were legally and factually sufficient. On 7 October 1970, the SA approved and directed your undesirable discharge under conditions Other Than Honorable (OTH). Your separation physical examination, on 28 October 1970, noted no psychiatric or neurologic issues, conditions, or symptoms. Ultimately, on 17 November 1970, you were separated from the Marine Corps for unfitness due to frequent involvement of a discreditable nature with civil or military authorities and assigned an RE-4 reentry code.

On 23 April 1975, the Naval Discharge Review Board (NDRB) denied your initial discharge upgrade application. You applied for reconsideration during which you argued that your undesirable discharge was unduly harsh because: (a) your overall record of service that included serving a combat tour in Vietnam and receiving the Purple Heart Medal, (b) you sought help but were denied rehab treatment, and (c) your offenses were minor. The NDRB denied your second application, on 22 November 1982, after determining 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 for a discharge upgrade and contentions that: (a) your discharge warrants an upgrade, particularly given the Marine Corps' denial of your attempt to get help at the time of your recovery, and (b) though your experiences do not excuse your misconduct, it is respectfully submitted that the physical and emotional trauma of being wounded in combat, watching and listening to your best friend die next to you, watching most of your platoon die in an explosion, experiencing relentless nightmares, and the lack of support from people you should have been able to trust, outweigh the impact on the Marine Corps of your use of marijuana, Optalidon, and other misconduct. 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.

A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 18 June 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner was evaluated during military service and diagnosed with a personality disorder. Temporally remote to his military service, a civilian psychologist has considered that he met diagnostic requirements of PTSD during his military service and met criteria for a trauma-related mental health condition prior to his death. It is plausible that symptoms identified as characterological during his military service may have been re-conceptualized as trauma-related with the passage of time and increased understanding. However, there are some inconsistencies with his service record and the report of the psychologist that raise doubt regarding the comprehensiveness of the records reviewed by the psychologist. In particular, the Petitioner's service record indicates that he reported pre-service substance use that continued in service. He also had a history of UA prior to his combat deployment. Also, it is difficult to attribute theft of another service member's belongings to

PTSD or a trauma-related condition. It is possible that some of his post-deployment UA, substance use, and disobedience by breaking restriction may be attributed to trauma-related concerns. However, it is difficult to attribute all of his misconduct to a trauma-related mental health condition.

The Ph.D. concluded, "There is post-service evidence from a civilian psychologist of diagnoses of PTSD and a trauma-related mental health condition that may be attributed to military service. There is insufficient evidence that all of his misconduct may be attributed to PTSD or a trauma-related mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In accordance with the Hagel, Kurta, and Wilkie Memos, the Board gave liberal and special consideration to your record of service and your contentions about any traumatic or stressful events you experienced and their possible adverse impact on your service. However, the Board concluded that there was no convincing evidence of any nexus between any mental health conditions and/or related symptoms and your misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. Additionally, the Board determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. The Board also 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.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 3.4 in conduct. Marine Corps regulations in place at the time of your discharge recommended a minimum trait average of 4.0 in conduct (proper military behavior), for a fully honorable characterization of service. The Board noted that your record reflected three (3) NJPs and two SCMs. The Board concluded that your cumulative misconduct was not minor in nature and that your conduct marks during your active duty career were a direct result of your serious misconduct and a repeated failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The simple fact remains is that, in addition to your polysubstance drug abuse, you left the Marine Corps while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse on no less than five (5) occasions for approximately 63 days. The Board 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.

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 in 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,

9/30/2025

