



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

Docket No. 2017-25
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 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 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

You enlisted in the Marine Corps and commenced active duty on 7 September 2006. On 11 October 2006, you were issued an administrative remarks (Page 11) counseling concerning your fraudulent enlistment waiver for failing to accurately disclose your pre-service marijuana use and testing positive for marijuana on your induction urinalysis. 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 12 July 2007, you received a Page 11 counseling regarding deficiencies in your performance and/or conduct, unauthorized absence (UA) from the rifle range and being late to work on several occasions. You were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 15 October 2007, you received non-judicial punishment (NJP) for assaulting, disrespecting, and disobeying a lawful order from a commissioned officer, two specifications of disobeying the Sergeant of the Guard, two specifications of being disrespectful to the Sergeant of the Guard, and four specifications of violating lawful orders. You were subsequently issued Page 11 counseling concerning deficiencies in your performance and/or conduct and were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 24 January 2008, you received NJP for disobeying a lawful order.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct. You waived your rights to consult counsel or have your case heard by an administrative discharge board. In the meantime, on 22 October 2008, you received NJP for unauthorized absence (UA) for failure to go to appointed place of duty at the time prescribed. On 24 October 2008, you received another NJP for UA, insubordinate conduct toward and willful disobedience of a petty officer, insubordinate conduct toward and treating a staff non-commissioned officer with contempt, two specifications of failure to obey a lawful order, and breaking restriction. On 17 November 2008, the separation authority directed your discharge with an OTH characterization of service and you were so discharged on 18 December 2008.

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 experienced PTSD and sexual trauma while in service, your service was marked by multiple traumatic events, particularly the devastating loss of close friends which precipitated a mental health crisis, that you faced severe isolation due to your marriage to a ■ National, you were subjected to hazing and sexual misconduct, and these incidents left you physically and emotionally exhausted. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, advocacy letters, a decision letter from the Department of Veterans Affairs, and other documents you provided in response to the AO.

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 26 June 2025. The AO stated in pertinent part:

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

Petitioner submitted the following items in support of his claim:

- VA compensation and pension rating noting service connection for treatment purposes only for PTSD with depression and anxiety
- VA Lay/Witness Statement

- Five character reference letters

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 a diagnosis of PTSD; however, no corroborating medical documentation was submitted to evaluate the etiology of/rationale for the given diagnosis. Furthermore, the nature and pervasiveness of his misconduct appears to exceed that of what would be expected by PTSD symptoms alone. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and a mental health condition.

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 a mental health condition.”

In response to the AO, you provided 2025 letter from a licensed professional counselor and a PTSD questionnaire that supplied additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

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 and multiple counselings, 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.

Finally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that existed in service and insufficient evidence to attribute your misconduct to a mental health condition. As the AO indicated, the nature and pervasiveness of your misconduct appears to exceed that of what would be expected by PTSD symptoms alone. 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, _____

8/26/2025

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Executive Director

Signed by: _____