



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

Docket No. 2207-25
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 22 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, 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 (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 afforded an opportunity to submit an AO 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 based on the evidence of record.

You enlisted in the Marine Corps Reserves (USMCR) and began a period of active duty for training on 5 February 1991. On 31 July 1991, you received an Honorable characterization for your period of active-duty service and transferred to your Reserve unit. On 30 March 1992, Navy Drug Laboratory, [REDACTED] reported that your urine sample tested positive for

cocaine and THC (marijuana). On 12 April 1992, you received non-judicial punishment (NJP) for wrongful use of cocaine and marijuana. In July 1992 and May 1993, you completed your annual physical screening with the military and denied any treatment or changes in your medical status. On 8 March 1994, Navy Drug Laboratory, ■ again reported that your urine sample tested positive for marijuana. In May 1994, you completed your annual physical screening with the military and denied any treatment or changes in your medical status. On 8 May 1994, you received your second NJP for wrongful use of marijuana.

Consequently, you were notified that you were being recommended for administrative discharge from the USMCR by reason of misconduct due to drug abuse. You were informed that the least favorable characterization of service you may receive is under Other Than Honorable (OTH) conditions. You waived your procedural right to consult with counsel and request a hearing before an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Marine Corps. As part of the CO's recommendation, he stated in pertinent part:

It is recommended that [Petitioner] be discharged from the USMC under Other Than Honorable conditions by reason of misconduct, drug abuse. It is our considered opinion that [Petitioner] possess no potential for further military service/mobilization.

The separation authority approved the recommendation and you were so discharged on 10 November 1994.

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 upgrade your discharge character of service and contentions that: (1) at the time of your discharge you were having a meltdown, (2) you did not serve overseas; however, the training you went through brought the war home to you since it involved loud weapons firing and grenades exploding, (3) you began to have dreams of bodies everywhere and it became hard for you to sleep and function in a normal way, (4) you were constantly haunted by the fear of dying in an explosion, (5) after many sleepless nights you began drinking and living a reckless lifestyle that included smoking marijuana to cope, and (6) after your discharge, things began to worsen, you could not get help, and you kept declining until you went homeless and disappeared from your family and friends. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and advocacy letter.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 4 June 2025. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. While substance use can be considered a behavioral indicator of a mental health condition, there is

insufficient evidence of a period of stellar service prior to a decline in functioning following a traumatic precipitant. The Petitioner has provided no medical evidence to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another 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 evident by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Additionally, the Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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. The Board found that your misconduct was intentional and made you unsuitable for continued naval service.

Further, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. Thus, the Board agreed there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition. As the AO explained, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with your misconduct. Additionally, there is no evidence that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Ultimately, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise 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. 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. 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

