



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. 2223-25
Ref: Signature Date

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Dear ██████████

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, reconsidered 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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.

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 previously applied to this Board for relief and were denied on 29 October 2019. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 2 December 1988. On your enlistment application, you disclosed two (2) pre-service DUI convictions in 1987.

On 10 April 1990, your command issued you a "Page 11" retention warning (Page 11) documenting certain deficiencies in your performance and/or conduct, specifically your lack of judgment and responsibility resulting in your DWI with a 0.19 BAC on board ██████████. You understood that your base driving privileges were suspended for one (1) year, and that you must attend alcohol/drug education training. The Page 11 expressly warned you that a failure to take corrective action may result in administrative separation or judicial proceedings. You did not elect to submit a Page 11 rebuttal statement.

On 9 June 1990, your command issued you another Page 11 documenting your driving privilege suspension. The Page 11 warned you that a failure to take corrective action may result in administrative separation or limitation on further service. You did not elect to submit a Page 11 rebuttal statement.

On 14 April 1992, you received NJP for: (a) unauthorized absence (UA), (b) failing to obey a lawful order, and (c) making a false official statement. You did not appeal your NJP.

On 12 September 1992, civilian authorities in ██████████, ██████████ arrested and charged you with DWI. On 15 October 1992, you were convicted of DWI and ordered to pay a fine and were placed on probation for two (2) years.

On 4 November 1992, you received NJP for: (a) conspiracy to commit an assault, (b) cruelty and maltreatment, (c) breach of the peace, (d) assault, (e) drunk and disorderly conduct, (f) unlawful entry, and (g) UA. You did not appeal your NJP.

On 13 November 1992, you underwent a Consolidated Drug and Alcohol Center (CDAC) evaluation. The CDAC evaluation indicated you were an alcohol abuser.

On 1 August 1993, you commenced a UA that terminated after five (5) days on 6 August 1993. Your subsequent CDAC evaluation, on 18 August 1993, indicated you were alcohol dependent, and recommended Level III rehabilitation treatment, AA meetings 3x/week, and SACO meetings 1x/week.

On 25 August 1993, you were convicted at a Summary Court-Martial (SCM) of: (a) the wrongful use of a controlled substance (marijuana), and (b) two (2) separate UA specifications. The SCM Officer sentenced you to a reduction in rank to the lowest enlisted paygrade (E-1), confinement for thirty (30) days, and forfeitures of pay, but suspended the forfeitures. On 2 September 1993, the Convening Authority approved the SCM sentence but set aside the guilty findings on the drug use charge.

On 21 September 1993, you were again arrested by civilian authorities in ██████████, ██████████ for another DWI. On 22 September 1993, civilian authorities issues an arrest warrant due to your probation violation. Your subsequent CDAC evaluation, on 29 September 1993, again indicated you were alcohol-dependent and a drug abuser and recommended you for discharge processing.

On 6 October 1993, you admitted guilt for your DWI. ██████████ authorities revoked your probation and sentenced you to a term of imprisonment for one (1) years in the custody of the ██████████ of Corrections.

On 19 October 1993, your CDAC evaluation indicated you were alcohol dependent and a cannabis abuser and again recommended you for discharge processing. On 23 November 1993, your command issued you a Page 11 documenting your parole violation by driving while intoxicated and while driving on a state suspended license, resulting in serving approximately nineteen (19) days in a state penitentiary.

On 6 December 1993, your command notified you of administrative separation proceedings by reason of misconduct due to a pattern of misconduct, misconduct due to the commission of a serious offense, misconduct due to a civilian conviction, and misconduct due to minor disciplinary infractions. You waived your rights to consult with counsel, submit statements, and to request a hearing before an administrative separation board. On 6 December 1993, your commanding officer (CO) recommended to the Separation Authority (SA) that you receive an under Other Than Honorable conditions (OTH) characterization of service.

Despite being diagnosed as alcohol dependent, on 6 January 1994, you expressly waived, in writing, your right to alcohol rehabilitation treatment at a VA treatment facility nearest your home of record in conjunction with your discharge processing. On 13 January 1994, the Staff Advocate to the SA determined your separation processing was legally and factually sufficient. On 20 January 1994, the SA approved your discharge for misconduct with an OTH character of service. Ultimately, on 26 January 1994, you were separated from the Marine Corps by reason of misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

On 27 January 2005, the Naval Discharge Review Board denied your discharge upgrade application 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) you served honorably for a period of service that outweighs the minor misconduct for which he was court-martialed and separated, (b) you were involved in no less than two separate life-threatening incidents, and suffered through years of undiagnosed and untreated PTSD, (c) consequently, you developed a destructive drinking problem in trying to self-medicate, (d) your excessive alcohol consumption took over your life, and you spiraled downward until you found yourself kicked out the USMC over minor, non-violent misconduct, (e) instead of letting your prior mistakes define your over the past thirty years, you have made significant strides in your personal and professional life, demonstrating that your military

misconduct was an aberration of character and that was influenced by your underlying mental health condition, (f) the BCNR has routinely granted relief in similar situations, including those that involve far more lengthy patterns of misconduct, (g) you were a phenomenal Marine who began to experience difficulties in the Marines following your 1990-1991 Desert Storm deployment, (h) you developed symptoms of PTSD following this deployment and a fire that occurred in 1990 on an amphibious assault vehicle, (i) despite developing these drinking habits and starting to drink heavily to deal with them, your command offered no assistance and, instead, targeted you for separation, (j) you briefly went AWOL in a misguided attempt to self-medicate and remove yourself from the toxic environment that caused the problems you were struggling to cope with at the time, (k) your underlying mental health condition was a substantial contributing factor in your military misconduct, and (l) you were an above average Marine until your traumatic experiences and the unresolved subsequent PTSD symptoms. For purposes of clemency and equity consideration, the Board considered the totality of 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 27 May 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

In July 1993, he was diagnosed with Alcohol Dependence. He reported he began consuming alcohol at age 16 with regular drinking at age 20. He acknowledged "that he smoked marijuana in 1984-1988....to get high. He indicated that he grew out of it before joining the Corps and has not used any illegal drugs while in the Corps.

Petitioner submitted evidence of civilian treatment of PTSD and Depression in April 2012. He provided a March 2024 record of treatment with a civilian psychiatrist...

Petitioner was appropriately referred for psychological evaluation and properly evaluated on a number of occasions during his enlistment. His alcohol and substance use disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. Temporally remote to his military service, he has received diagnoses of PTSD and other mental health concerns. The Petitioner and his civilian provider have considered that these diagnoses may be attributed to military service. However, it is difficult to attribute his misconduct solely to mental health concerns incurred during military service, given pre-service problematic alcohol use that appears to have continued in service.

The Ph.D. concluded, "There is some post-service evidence from a civilian mental health provider of diagnoses of PTSD and other mental health concerns that may be attributed to military service. There is insufficient evidence that his misconduct may be solely attributed to PTSD or another mental health condition, other than alcohol or substance use disorder."

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 PTSD, mental health conditions and/or related symptoms and your misconduct and determined that there was insufficient evidence to support the argument that any such PTSD or 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 PTSD or mental health-related conditions or symptoms. Even if the Board assumed that your misconduct was somehow attributable to any mental health-related conditions or PTSD, the Board unequivocally concluded that the severity of your cumulative pattern of misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional, pervasive, and willful, 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 disagreed with your argument that relief is warranted because the Board has previously granted a discharge upgrade with an analogous/similarly situated Petitioner. The Board noted that no two cases are comparable given the obvious factual differences inherent with each individual case. Moreover, the Board's three-member composition is random in nature and is not comprised of the same members each day. Accordingly, while previous board decisions may initially appear inconsistent with other adjudicated cases, such decisions actually reflect a Board's careful and thoughtful analysis of the specific facts and circumstances of each Petitioner, and do not establish binding or compelling precedent for subsequent boards.

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 3.8 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 two (2) NJPs, multiple Page 11 counseling entries, two (2) civilian DWI convictions, a 1990 DWI offense onboard ██████████, a parole violation, and a SCM. 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. Moreover, absent a material error or injustice, the Board declined

to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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,

11/14/2025

