



**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. 2315-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 12 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 (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.

You enlisted in the Marine Corps and began a period of active duty on 29 January 2007. On 14 September 2007, you were found guilty by a special court-martial (SPCM) of wrongfully distributing a control substance, to wit: marijuana, in violation of Article 112a, Uniform Code of Military Justice (UCMJ). As punishment, you were sentenced to confinement, forfeiture of pay, reduction in rank, and a Bad Conduct Discharge (BCD). Ultimately, upon the completion of appellate review in your case, you were so discharged from the Marine Corps on 18 June 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 upgrade your discharge character of service and contention that you were unaware you were battling a mental illness at the time of your service. 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.

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 30 June 2025. The AO stated in pertinent part:

There is evidence that the Petitioner was diagnosed with psychosis shortly after his misconduct. It is possible that he was experiencing temporary psychotic symptoms; however, if the Petitioner was experiencing prodromal symptoms of a psychotic disorder, then more likely than not, he would be continuing to exhibit symptoms today as most psychotic disorders are unfortunately permanent and do not resolve. Post-service and more recent mental health records would be helpful in clarifying the Petitioner's condition during his time in service. Additional 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 a mental health condition (PTSD) that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. The Board determined that illegal drug use and distribution 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. The Board also determined your conduct was sufficiently serious to negatively affect the good order and discipline of your unit. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD.

Further, the Board concurred with the AO that while there is sufficient evidence of a mental health condition (PTSD) that existed in service, there is insufficient evidence to attribute your misconduct to a mental health condition. As the AO explained, while it is possible that you were experiencing temporary psychotic symptoms, if you were experiencing prodromal symptoms of a psychotic disorder you more likely than not would have continued to exhibit symptoms as most psychotic disorders are permanent and do not resolve. Further, the Board noted that the nature of your misconduct, drug distribution, is an atypical symptom of a mental health condition. Therefore, the Board determined that the record clearly reflected that your active-duty misconduct was willful and 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. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memo 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,

8/25/2025

