



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

[REDACTED] Docket No. 2378-25

Ref: Signature Date

[REDACTED]

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 Board waived the statute of limitation 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 5 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 the 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 to 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) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You enlisted in the Marine Corps acknowledging a pre-service history of marijuana use and began a period of active duty on 3 April 1989. On 12 January 1990, you received your first non-judicial punishment (NJP) for violation of Article 91 of the Uniform Code of Military Justice (UCMJ) due to willfully disobeying a lawful order to not leave without picking up your leave papers. In September 1990, you were issued administrative counseling due to violating base traffic regulations by driving without a license. From 17 January 1991 through 8 April 1991, you deployed in support of Operation Desert Storm and were awarded the Combat Action Ribbon in addition to related campaign and service medals. On 13 January 1992, following a message from the Navy Drug Laboratory which reported your urinalysis positive for marijuana use, you received a second NJP for violation of Article 112a of the UCMJ due to wrong use of

a controlled substance. You were subsequently notified of processing for administrative separation by reason of misconduct due to drug abuse and you elected to voluntarily waive your right to an administrative separation board hearing. In the meantime, you commenced a period of unauthorized absence on 2 March 1992 that ended with your surrender on 10 May 1992. The recommendation for your separation under Other Than Honorable (OTH) conditions was approved and you were so discharged on 13 May 1992.

You previously applied to the Naval Discharge Review Board (NDRB) contending that your discharge was inequitable because you had a clean record prior to the incident, your discharge was based solely on "one incident" in 28 months of service, you no longer used marijuana, and your type of discharge was not consistent with that issued by other branches of service. Your request was considered on 27 April 1993 and denied.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and your contention that the misconduct which resulted in your discharge was due to combat-related post-traumatic stress disorder, that your record was good prior to that point, and you received a purported Good Conduct Medal¹. You state that your previous attempts were denied but you were motivated to again seek an upgraded characterization of discharge due to exposure to toxic chemicals; presumably during your assignment to [REDACTED]. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and your rating decision from the Department of Veteran Affairs (VA).

Because you contend that PTSD or another mental health condition affected your discharge, the Board also considered the AO, which noted the VA determination of service connection for PTSD for treatment purposes. It advised:

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 VA compensation and pension rating indicating a post-service diagnosis of PTSD; however, no additional documentation was submitted that notes the rationale for/etiology of the given diagnosis. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and a mental health condition. Additional records (e.g., active duty medical 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 PTSD diagnosis that is temporally remote to service. There is insufficient evidence to attribute his misconduct to a mental health condition (PTSD)."

¹ To the extent that you believe you received a Good Conduct medal, the Board noted that the remarks entry in block 18 of your discharge record only reflects that the three-year period you were required to serve without misconduct, in order to earn that award, had been restarted due to your NJPs. The Board found no evidence you earned the Good Conduct Medal or that you met the minimum requirements for it.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. 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. 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. 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. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your service fell well below the minimum standards for a General (Under Honorable Conditions) or Honorable characterization of service.

Further, the Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the VA determination in your case. However, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board agreed with the AO that your medical evidence does not provide a rationale or etiology for your PTSD diagnosis to attribute your misconduct to a mental health condition. 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.

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 the 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 is attached 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,

9/29/2025

