



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 2444-25
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 21 November 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). 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.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 12 January 1973. Your pre-enlistment self-reported medical history noted no psychiatric or neurologic issues, history, conditions, or symptoms.

On 11 June 1974, you received non-judicial punishment (NJP) for failing to obey a lawful general order by both wrongfully selling marijuana and wrongfully possessing marijuana debris. You did not appeal your NJP.

On 9 July 1975, you received a “Page 11” counseling warning (Page 11) documenting that you were not recommended for promotion due to a lack of military bearing and poor appearance.

On 11 September 1975, you received NJP for an unauthorized absence (UA) from your appointed place of duty when you did not provide a drug urinalysis sample. You did not appeal your NJP.

Your separation physical examination, on 15 December 1975, noted no psychiatric or neurologic issues, symptoms, or conditions. On 12 January 1976, your command placed you on “legal hold” past your service obligation date due to pending legal action.

On 5 March 1976, you were convicted at a Special Court-Martial (SPCM) of the wrongful possession of a controlled substance (approximately 42.6 grams of marijuana). The Court sentenced you to forfeitures of pay, a reduction in rank to the lowest enlisted paygrade (E-1), and restriction. On 5 April 1976, the Convening Authority approved the SPCM sentence. Ultimately, on 13 April 1976, you were discharged Marine Corps with a General (Under Honorable Conditions) discharge characterization (GEN) and assigned an RE-4 reentry code.

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, Good Conduct Medal (GCM), and restoration of your paygrade. You contend that: (a) on active duty your hair was in full compliance with all regulations; however, you were requested to cut your hair lower essentially "to go bald" and you chose not to comply with that directive, (b) your reduction in rank was done solely as a result of your refusal to alter your hair to please your leadership, even though it was within regulations. (c) this personal decision, made based on your principles, unduly influenced both your discharge status and your military records, (d) you believe it was unfair practice and unjust to be reduced in rank, and that it was done without reviewing the Marine Corps grooming regulations at the time, (e) as you get older, you want your grandchildren to remember you as an Honorable Marine that took an oath many others did not, and (f) you are proud of your service and proud of what you have done in your lifetime and want to go out with a clean record. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the personal statements 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 1 July 2025. As part of the Board’s review, the Board considered the AO. The AO stated in pertinent part:

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 did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and any mental health condition.

The Ph.D. 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 (PTSD)."

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 that you suffered from any type of mental health condition while on active duty, or that any such mental health condition was related to or mitigated the misconduct that formed the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. 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 cumulative misconduct far outweighed any and all mitigation offered by such mental health conditions. The Board determined the record reflected that your misconduct was intentional 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 noted, contrary to your contentions, that you did not earn the GCM. The GCM requires three years of continuous active duty service without any documented misconduct to be eligible. The Board noted that each instance of substantiated misconduct restarts the three-year GCM eligibility clock. Unfortunately, even though you served just over three (3) years of active duty service and received a GEN discharge, the Board concluded that your two (2) NJPs and SPCM conviction during that period of service rendered you ineligible to receive the GCM upon your discharge.

The Board also determined that your reduction in rank and ultimate separation with a GEN discharge was not due to your failure to comply with USMC grooming standards. The Board noted that your documented misconduct included two (2) NJPs and a SPCM involving drug-related offenses and an unauthorized absence. Accordingly, the Board denied your request to restore your rank. The Board noted that your reduction in rank to E-1 occurred as a result of your SPCM conviction for drug possession and that such punishment was appropriate and within the discretion of the Court.

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 GEN or under Other Than Honorable 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. The Board determined that illegal drug distribution and/or possession is contrary to Marine Corps core values and policy, renders such Marines unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your drug-related misconduct and disregard for good order in discipline clearly merited your GEN discharge and no higher. 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,

12/2/2025

