



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

[REDACTED]
Docket No. 2496-25
Ref: Signature Date

[REDACTED]

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 the advisory opinion (AO) furnished by a qualified mental health provider and your AO rebuttal.

You enlisted in the U.S. Marine Corps and began a period of active duty service on 1 October 1981. At the end of your obligated active service, you were honorably discharged on 30 September 1985. On 9 November 1987, you reenlisted in the U.S. Marine Corps Reserve (USMCR). After periods of service, you twice reenlisted in the USMCR on 8 November 1988, and again on 8 April 1990.

On 16 July 1993, you submitted a voluntary written request for an administrative discharge for the good of the service to avoid trial by court-martial for the following offenses: (a) conspiracy to submit fraudulent claims, (b) multiple specifications of larceny, and (c) presenting a false and fraudulent travel claim. Prior to submitting this voluntary discharge request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. You acknowledged that if your request was approved your service would be characterized as under Other Than Honorable conditions (OTH) and you would be administratively reduced in rank to pay grade E-3 (Lance Corporal) upon your discharge. As a result of this course of action, you were spared the stigma of a court-martial conviction for your offenses, as well as the potential sentence of confinement and the negative ramifications of likely receiving a punitive discharge.

On 22 July 1993, the Staff Judge Advocate to the Separation Authority (SA) determined that your discharge proceedings were legally and factually sufficient. On 22 July 1993, the separation authority approved your discharge request for the good of the service in lieu of trial by court-martial with an OTH discharge characterization. Ultimately, on or about 26 July 1993, you were separated from the Marine Corps in lieu of a trial by court-martial with an OTH discharge characterization 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 Hagel, Kurta, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and changes to your reason for separation and separation code. You contend that: (a) your request is being made on the basis of material error and material injustice, (b) the Department of Veterans Affairs (VA) has granted you a service-connection for treatment purposes for PTSD, (c) you remain a victim of the failure to diagnose your PTSD and of the traumatic experiences you endured serving your country in the Marine Corps, and you are haunted by those memories daily, and (d) although you may never fully recover from the PTSD that you suffered while in service, you continue to strive to improve not only for yourself, but for your family. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and 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 8 July 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to the circumstances of his separation...Petitioner contended he incurred PTSD from witnessed human remains and the aftermath of Operation Desert Shield/Storm. He has been granted service connection for treatment purposes for PTSD, effective February 2021.

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. Throughout his disciplinary processing, there were no concerns raised of a mental health condition

that would have warranted a referral for evaluation. The VA has granted service connection for PTSD. Unfortunately, it is difficult to attribute fraud, theft, and conspiracy to symptoms of PTSD.

The Ph.D. concluded, "There is post-service evidence from the VA and a civilian psychologist of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD."

Following a review of your AO rebuttal submission, the Ph.D. did not change or otherwise modify their original AO.

After thorough review, the Board concluded these potentially mitigating factors and contentions 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 mental health conditions and/or related symptoms and your serious misconduct, and determined that there was insufficient evidence to support the argument that any such mental health conditions mitigated the misconduct forming the basis of your discharge. As a result, the Board concluded that your misconduct was not due to mental health-related conditions or symptoms. Additionally, the Board concluded that your offenses of conspiracy, larceny, and fraud/false claims were not the type of misconduct that would be excused or mitigated by any mental health conditions even with liberal consideration. 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. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also concluded 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.

Additionally, the Board concluded that any contentions regarding your command allegedly committing any material errors or injustices to be entirely without merit and not persuasive. The Board determined that there was no credible and convincing evidence in the record regarding any purported command misconduct, improper motives, or abuses of discretion or judgment in the investigating, handling, and processing of your voluntary discharge request and subsequent administrative separation. The Board unequivocally determined that your administrative separation was legally and factually sufficient, and in compliance with all Department of the Navy directives and policy at the time of your discharge.

The Board also noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. Such VA eligibility determinations are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations.

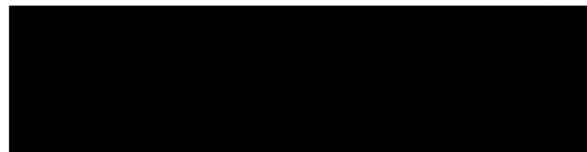
The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization 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.

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,

12/2/2025



Executive Director
Signed by: [REDACTED]