



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. 2806-25
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 15 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 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) furnished by a qualified mental health professional and your response to the AO.

You enlisted in the Marine Corps Reserves and commenced a period of active duty on 3 August 1982. On 17 December 1982, you honorably completed your initial training and were transferred to your Reserve unit. On 4 September 1983, you were counseled for being eligible for, but not recommended for promotion, due to poor drill attendance. On 28 October 1983, you were counseled for being involved in an incident of illegal drug use or possession. On 8 January 1984, you received non-judicial punishment (NJP) for wrongful use of marijuana as evidenced by a positive urinalysis. On 8 May 1984, your command sent you a letter concerning your unsatisfactory participation in the reserves. Consequently, you were notified, by mail, of your administrative separation processing for unsatisfactory participation. On 4 August 1984, your Commanding Officer (CO) recommended your discharge with an Other Than Honorable (OTH)

characterization of service due to unsatisfactory participation and documented that postal authorities had delivered your notification. The separation authority approved the CO's recommendation, and you were so discharged on 5 September 1984.

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 Memo. These included, but were not limited to, your desire to upgrade your discharge characterization of service and your contentions that no one knew what your final characterization of service was, that the Department of Veterans Affairs (VA) says it was recommended under less than Honorable, it was Honorable from your initial tour for training until you were poisoned at ██████████, you begged for help for depression and excessive worry which was documented in your medical records, no one helped you, you have suffered your entire life, you are 100% service-connected total and permanent; and you need this upgrade for a VA loan. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted of your DD Form 149, VA documentation of your 100% disability rating, your VA summary of benefits, and a Board of Veteran's Appeals order.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 11 July 2025. The AO noted in pertinent part:

There is evidence that the Petitioner endorsed depressive symptoms in response to situations stressors during his separation physical; however, there is no evidence that the Petitioner suffered from a mental health condition prior to that. There is no explanation or documentation contained within his available service record that notes rationale for unauthorized absences from drill and or marijuana use. He provided evidence for Major Depressive Disorder that is temporally remote to service. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and any mental health condition. Additional records (e.g., active duty medical and mental health records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

The AO 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."

In response to the AO, you provided additional information to clarify the circumstances of your case. After review of your rebuttal evidence, the original AO remained unchanged.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and failure to participate in your Reserve drills, 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 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 noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also considered the likely negative impact your poor participation in the reserves likely had on good order and discipline within your unit. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that existed during your service and insufficient evidence to attribute your misconduct to a mental health condition. As explained in the AO, the evidence you provided is temporally remote to your service and is insufficient to provide a nexus between a mental health condition and your misconduct. 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.

Finally, the Board 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, disability ratings, and/or discharge classifications are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations. 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 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 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,

9/22/2025

