



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

██████████
Docket No. 3107-25
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. Although you were provided an opportunity to respond to the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and commenced active duty on 22 January 2001. Prior to entry, you signed the Marine Corps Statement of Understanding on Illegal Use of Drugs. You also entered the service on a waiver for prior use of marijuana. On 3 July 2002, your urinalysis tested positive for cocaine. On 26 July 2002, you were convicted at Summary Court-Martial

(SCM) of violating Article 112a of the Uniform Code of Military Justice (UCMJ) for wrongful use of cocaine. You were sentenced to reduction to paygrade E1 and confinement for 30 days.

Consequently, you were notified of pending administrative separation processing with an Other Than Honorable (OTH) discharge by reason of misconduct due to drug abuse. You elected to consult with legal counsel but waived your remaining rights. Your commanding officer recommended your separation with an OTH characterization of service and the separation authority approved the recommendation. You were so discharged on 24 October 2002.

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 and your contentions that discharge should be reconsidered in light of new medical evidence regarding your mental health condition, specifically your post-traumatic stress disorder, which was undiagnosed and untreated during your time in service. You further contend, prior to enlisting, you unknowingly suffered from PTSD and was unaware of how deeply the condition affected you in service, that the rigorous and high-stress environment of military service exacerbated your mental health struggles, this lead to a significant decline in your ability to function and make sound decisions, your condition directly contributed to the circumstances surrounding your discharge, and you take full responsibility for your actions but ask the Board to consider the broader context of your in-service behavior. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your personal letter to the Board, service record documents, a letter from a healthcare provider, and two advocacy letters.

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 14 July 2025. The AO noted in pertinent part:

Petitioner was evaluated during military service and denied mental health symptoms. 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. Temporally remote to his military service, he has received diagnoses of PTSD and other mental health conditions from a civilian provider. These concerns are attributed to childhood experiences and, from the perspective of his civilian provider, may have been present during military service. Unfortunately, there are discrepancies in his record that raise doubt regarding his candor. Available records are not sufficiently detailed to provide a nexus with his misconduct, particularly given pre-service substance use. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "There is post-service evidence from a civilian provider of diagnoses of PTSD and other mental health concerns that may have been present during military service.

There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition.”

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 SCM, 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 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.

Additionally, the Board concurred with the AO and determined there is not enough evidence to attribute your misconduct to PTSD or another mental health condition. As explained in the AO, your diagnosis is temporally remote to your service and you denied any mental health symptoms when you were examined while on active duty. 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 and commends you for your post-discharge accomplishments, 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,

9/17/2025
