



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

██████████
Docket No. 3338-25
Ref: Signature Date

████████████████████
████████████████████
████████████████████

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 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 8 September 2025. The names and votes of the panel members will be furnished upon request. Your allegations of error or 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 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)/mental health condition (MHC) (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.

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 on the evidence of record.

You enlisted in the U.S. Marine Corps (USMC) and began a period of active duty on 21 July 1998. Prior to your enlistment, you signed a statement of understanding acknowledging the USMC policy on illegal drug use. On 22 July 2000, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your appointed place of duty, disrespect towards a noncommissioned officer, and making a false official statement. On 31 May 2001, your

urinalysis tested positive for tetrahydrocannabinol (THC), the primary psychoactive compound in marijuana, and you subsequently refused a medical officer's evaluation. On 11 July 2001, you were arrested by the ██████████ Department for driving under the influence (DUI) and operating a vehicle with a blood alcohol concentration of 0.08 percent or greater. On 17 August 2001, you received a second NJP for failure to obey an order or regulation. Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps for drug abuse; at which time you elected your right to consult with counsel and to present your case to an administrative discharge board. On 14 November 2001, after conferring with your defense counsel, you waived your right to an administrative discharge board and requested retention to your End of Active Service (EAS). Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of drug abuse and you were so discharged on 2 April 2002.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your initial request for an upgrade, on 18 January 2007, based on their determination that your discharge was proper as issued. The NDRB, however, noted administrative errors on your Certificate of Release or Discharge from Active Duty (DD Form 214) and directed Headquarters Marine Corps to correct those errors.

You submitted a second application to the NDRB for a discharge upgrade. On 28 March 2014, the NDRB determined that your discharge was proper and equitable at the time it was issued but concluded that relief was warranted based on your post-service conduct. Accordingly, the NDRB upgraded your characterization of service to General (Under Honorable Conditions (GEN) while noting that a fully Honorable discharge was not warranted due to your in-service misconduct.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 an upgrade of your discharge and your contentions that: (1) your characterization of service is unjust as it was disproportionately harsh when compared to historically similar or worse cases, (2) you were discharged only a few months prior to completing your enlistment, (3) you served the majority of your obligated service honorably, notwithstanding some minor issues towards the end of your enlistment, (4) you believe those isolated incidents were insufficient to warrant the discharge characterization you received, (5) your conduct marks were consistently high, (6) you were unknowingly in the early stages of PTSD, (7) the passage of time, along with the guidance set forth in the Hagel and Wilkie Memos, support relief, (8) you have been an upstanding citizen with no issues with the law and are currently serving as a civil servant, and (9) you thought an upgrade to GEN would allow you the option of using the educational benefits that you paid into while service, but a GEN discharge is not considered Honorable even though it states "Under Honorable Conditions." For purposes of clemency and equity consideration, the Board considered the totality of your application, which included your DD Form 149 and the evidence you provided in support of it.

Based on your assertions that you incurred mental health issues (PTSD) during military service, which may have contributed to the circumstances of your separation, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 22 July 2025. The AO stated in pertinent part:

There is no evidence that the Petitioner suffered from a mental health condition or any symptoms incurred by a mental health condition while in military service. He provided VA compensation and pension rating noting diagnoses of PTSD and Major Depressive Disorder that are temporally remote to service. Furthermore, no corroborating documentation was provided to evaluate the rationale for the VA diagnoses. In his 2014 NDRB, he did not mention any PTSD symptoms as having potentially mitigated his misconduct. 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) would aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is sufficient evidence of a post-service diagnosis of PTSD. There is insufficient evidence to attribute his misconduct to a mental health condition or PTSD."

In response to the AO, you submitted additional evidence in support of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, civilian arrest, and positive urinalysis for marijuana use, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that 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 observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your original 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. The Board also considered the likely negative discrediting effect your civilian arrest had on the Marine Corps. Furthermore, the Board disagreed with your contention that your misconduct was minor in nature and limited to the end of your enlistment. As detailed above, you commenced your misconduct in July 2000 and continued until you were administratively discharged in August 2001; a period exceeding one calendar year. During this period, you committed multiple offenses which qualified as serious offenses under the Marine Corps Separation Manual.

Additionally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to a mental health condition or PTSD. As explained in the AO, your post-service diagnoses of PTSD and Major Depressive Disorder are temporally remote to your military service and insufficient to provide a nexus with 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. 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.

In addition, the Board determined, consistent with the NDRB's prior decision, that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate; a standard the Board found was not met in your case. Further, the Board determined you already received a large measure of clemency when the NDRB upgraded your OTH characterization of service to GEN. Finally, 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 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,

9/22/2025

