



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

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Docket No. 3401-25  
Ref: Signature Date

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Dear ██████████

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 Board waived the statute of limitation 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 December 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 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) (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) of a qualified mental health provider and your response to the AO.

You enlisted in the Marine Corps after receiving a waiver for your pre-service involvement with civil authorities and began a period of active duty on 12 June 1978. In September 1979, you were counseled for failure to make your rack and properly clean your quarters. In February 1981, you received nonjudicial punishment (NJP) for two specifications of violating Article 128 of the Uniform Code of Military Justice (UCMJ) after you struck a staff sergeant with both hands in the chest and raised a closed fist toward him in a threatening manner. During April 1981 and May 1981, you were issued administrative counseling on three occasions documenting

deficiencies that included failure to wear proper attire during working hours, the importance of setting the example, repeatedly being late for work, poor performance as a driver, poor attitude, and revocation of your license until your end of obligated active service. Following that revocation, you absented yourself without authority between 22 May 1981 and 26 May 1981, after which you were issued administrative counseling advising you that your frequent involvement of a discreditable nature with military authorities could result in possible administrative separation. You were also terminated from the intermediate level aviation maintenance department at the request of the aviation maintenance officer due to incompetence and a derogatory attitude. On 1 October 1981, you were notified of administrative separation processing by reason of misconduct due to your frequent involvement of a discreditable nature with military authorities. You elected to voluntarily waive your right to a hearing before an administrative discharge board and your commanding officer (CO) recommended that you be discharged under Other Than Honorable (OTH) conditions. In his endorsement, your CO stated in pertinent part:

[Petitioner] has been a constant disciplinary problem since joining this command. Simple tasks seem a burden to this Marine in that routine matters are too much to ask. Constant supervision is mandatory if this Marine is to do even a satisfactory job. [Petitioner] is not reliable, cannot be depended on, and doesn't possess the desire to become a responsible Marine. He further demonstrated that he has no desire to remain in the Marine Corps...

The CO's recommendation was approved following a legal review by the staff judge advocate, and you were so discharged on 18 October 1981.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and change your narrative reason for separation, separation code, and reentry code. You contend that you were abused at home as a child and bullied at school, those experiences resulted in mental health issues that were subsequently aggravated during your military service, you performed well initially as an avionics repairman but were transferred to an air station near your home of record where you struggled with adequate knowledge of the different aircraft platform, your struggles resulted in your being assigned to alternate duties, and then experienced a serious rift in your family relationships due to interpersonal conflicts. The combination of your professional and family stressors caused you to experience sleep and attitude problems. You have, in the decades since your discharge, been diagnosed with sleep apnea; which you believe worsened your mental health status during your active service and contributed to the misconduct which resulted in your OTH discharge. In support of your request, in addition to your counsel's brief and your personal statement, you submitted medical records, news articles regarding sleep apnea and mental health concerns, policy memoranda, evidence of post-service employment and accomplishments, letters of appreciation, character letters, and personal photographs. 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.

Because you contend that a mental health condition affected your discharge, the Board also considered the AO. 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 submitted post-service evidence of a diagnosis of sleep apnea. He contends that he suffered from sleep apnea in service, which caused mental health symptoms that mitigated misconduct. It seems unusual that his resume indicates that he worked as a pilot when the medical condition he is claiming from service would disqualify him for that occupation. His personal statement is not sufficiently detailed to provide a nexus between his misconduct and any mental health condition.

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 evidence in support of your application. After a review of your rebuttal evidence, the AO remained unchanged.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and multiple counselings, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your 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. Although the Board favorably noted your evidence of post-service accomplishments, the Board found that the serious nature of your NJP and the repeated nature of your overall misconduct and substandard performance constituted significant departure from the conduct expected of a Marine.

Further, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to a mental health condition. The Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. 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.

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,

1/13/2026

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