

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

Docket No. 3642-25  
Ref: Signature Date

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 2 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (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.

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 previously applied to this Board for an upgrade to your characterization of service and were denied relief on 22 November 2023. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

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 Memos. These included, but were not limited to, your desire to upgrade your discharge character of service and change your narrative reason for separation. You request these changes so that you may access resources to better take care of your daughter, and to be able to once again proudly call yourself a Marine. The Board considered your contentions that: (1) you should receive an upgrade of your discharge character of service because your service-connected mental health conditions and the racial harassment you experienced during your service, combined with your positive post-discharge conduct, outweigh and mitigate the misconduct that led to your discharge, (2) the Department of Veterans Affairs (VA) and Veterans Benefits Administration (VBA) have determined you have service-connected PTSD, (3) your PTSD was due to your exposure to various traumatic events during your service, (4) the racial harassment you experienced exacerbated your trauma and stress disorder, (5) your conduct was relatively minor; you had otherwise Honorable service and good character in your ensuing years, (6) your PTSD outweighs the Other Than Honorable (OTH) discharge when combined with the racial harassment you experienced and the unfair evaluation of your behavior, (7) your discharge would have been less prejudicial had current policies and procedures applied at the time of your discharge decision, and (8) your discharge is unjust. 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.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 24 July 2025. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His adjustment disorder diagnosis and noted problematic characterological features were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. An adjustment disorder typically resolves once the stressor, such as military service, is resolved. Temporally remote to his military service, he has received a diagnosis of PTSD from the VA that is attributed to military service. However, it is difficult to attribute his misconduct to a mental health condition, given his denial of wrongdoing.

The AO concluded, "There is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is in-service evidence of other mental health concerns that may be attributed to military service. There is insufficient evidence that his in-service misconduct may be attributed to PTSD or another mental health condition."

In your response to the AO, you provided additional arguments in support of your application. After reviewing your rebuttal evidence, the 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 administrative counseling and three non-judicial punishments, outweighed these mitigating

factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service but you continued to commit additional 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 unit.

Furthermore, despite your arguments that question the accuracy of the AO<sup>1</sup>, the Board concurred with the AO that there is insufficient evidence that your in-service misconduct may be attributed to PTSD or another mental health condition. As the AO explained, your Department of Veterans Affairs rating is too temporally remote from your military service to provide a nexus between your mental health condition and your misconduct. Further, the Board found the nature of your most serious offense, your misappropriation of another Marine's property, was not the type caused by PTSD. 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.

Further, the Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active-duty trait average calculated from your available performance evaluations during your enlistment was approximately 3.9 in conduct. Marine Corps regulations in place at the time of your discharge recommended a minimum trait average of 4.0 in conduct (proper military behavior) for a fully Honorable characterization of service. The Board concluded that your misconduct was not minor in nature and that your conduct marks during your active-duty career were a direct result of your serious misconduct and further justified your OTH characterization.

Finally, the Board again disagreed with your characterization of your misconduct as "relatively minor." As discussed in your previous decision letter, periods of unauthorized absence and wrongful appropriation of another Marine's property is the type of serious misconduct that can negatively impact the morale and cohesion of a Marine Corps unit. The Board considered that your chain of command considered your record of misconduct conduct to be serious and pervasive enough to merit your administrative separation with an OTH characterization of service. While the Board considered your allegations of widespread racism, the Board noted that you provided no evidence, other than your statement, to substantiate your allegations of unfair

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<sup>1</sup> The Board considered your argument that the AO misstated facts by claiming you denied "wrong doing." In carefully reviewing your declaration, the Board noted that, while you admitted to committing the acts which formed the basis for your administrative separation and OTH, you fail to take responsibility for your actions by stating the decisions to punish you were racially motivated or unfair. You also claim that your punishment and administrative separation was disproportionate to your conduct, indicating you do not believe your misconduct was serious. Without making a determination whether denial of "wrong doing" is factually incorrect and a mischaracterization based on your declaration, the Board concluded the AO's conclusions were supported by other factors as discussed.

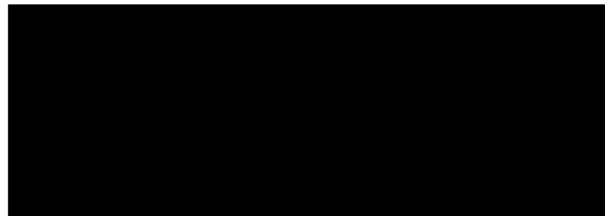
treatment<sup>2</sup>. Moreover, the Board considered that you did not appeal any of your NJPs nor did you request an administrative separation board; which would have afforded you legal counsel at no cost. Either of these actions would have allowed you to expose the persistent racial animus you faced at your command and provided you an opportunity to argue the unfairness of your treatment to higher authority<sup>3</sup>. Thus, the Board determined the presumption of regularity applies in your case and was not persuaded by your arguments that your behavior was not properly evaluated, you were treated unfairly, and your active duty service, but for the incidents of misconduct, was otherwise Honorable.

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,

9/11/2025



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<sup>2</sup> The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In reviewing your evidence, the Board determined it was insufficient to overcome the presumption in your case.

<sup>3</sup> This lack of evidence, apart from your personal observations, to support your allegations that you experienced continuous racism from your supervisors throughout the Marine Corps led the Board to conclude the presumption of regularity applies with your NJPs and administrative separation processing.