



[REDACTED]

[REDACTED]

[REDACTED]

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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 a discharge upgrade and were denied on 26 October 2020. In your previous application, you contended that you suffered from an undiagnosed and

untreated arm injury. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 for a discharge upgrade and contentions that: (a) while serving in the military, you had a traumatic brain injury (TBI), were diagnosed with substance use disorder (SUD), schizophrenia, anxiety, and PTSD, (b) you experienced significant hardship and other extenuating circumstances that prevented you from submitting this request, and (c) you believe that correcting this error is in the interest of justice. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and a copy of your behavioral health comprehensive assessment.

As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

Petitioner declined psychological evaluation during his enlistment. 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, other than a possible substance use disorder. There is no medical evidence of TBI. Petitioner has provided medical evidence of other mental health conditions that are temporally remote to his military service and appear unrelated. Unfortunately, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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, "it is my considered clinical opinion that there is insufficient evidence of a diagnosis of TBI, PTSD, or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to TBI, PTSD, or another mental health condition."

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 non-judicial punishment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact 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. Further, the Board noted that marijuana use is still against Department of Defense regulations and not permitted for recreational use while serving in the military.

Additionally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. The Board applied liberal consideration to your claim that you suffered from TBI and a mental health condition, and to the

effect that these conditions 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 TBI or a mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact your medical evidence is temporally remote to your service. In this regard, the Board simply had insufficient information available upon which to make such a conclusion. 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 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,

11/19/2025

