



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

██████████
Docket No. 4523-25

9459-18

11272-09

Ref: Signature Date

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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.

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 13 February 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 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) of a qualified mental health provider and your response to the AO.

You first applied to the Board contending basic mitigating factors of youth and immaturity and argued that your record of more than four years of military service otherwise warranted an upgraded characterization. Your request was considered on 4 August 2010 and denied due to the seriousness of your misconduct.

You sought reconsideration contending that you had experienced symptoms of post-traumatic stress disorder (PTSD) during your military service after your second deployment, where you

claim to have participated in rescue and recovery of the remains of Marines who were killed in the October 1983 bombing of the Marine Barracks in Beirut, Lebanon. You attributed your drug abuse misconduct to self-medicating your PTSD symptoms. In support of your contentions, you submitted a personal statement. Your request was considered on 25 November 2019 and was again denied. In significant part, the Board's decision noted that you acknowledged using marijuana prior to that deployment and, therefore, could not attribute that use to your contended PTSD incurred during the deployment.

The summary of your naval service remains substantially unchanged from that addressed in the Board's two previous reviews of your record; however, the Board specifically noted, with respect to your drug use as identified within your service record, your service health record contains a medical drug abuse interview conducted on 4 March 1983, in which you reported having started use "~1 year ago" and admitted to frequency of use greater than or equal to two times per month. You also admitted to using once over the previous Christmas vacation. Additionally, you were assigned to the ██████████ which began a Mediterranean deployment cycle in April 1983.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contention for mitigation, the Board noted you did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and no error exists with your OTH characterization of service.

However, because you again contend that post-traumatic stress disorder (PTSD) or another mental health condition affected the misconduct which resulted in your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition in service or that he suffered from any symptoms incurred by a mental health condition. He submitted post-service evidence of PTSD and Depression that are temporally remote to service. Furthermore, continued weekly use of marijuana after having been disciplined for use thereof, is not typical of behavior caused by PTSD or a different mental health condition.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a primary mental health condition that existed in service. There is insufficient evidence to attribute his 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 and the fact your medical evidence is temporally remote to your service. 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. Specifically, your initial drug abuse interview in March of 1983 pre-dated the deployment during which you contend to have incurred PTSD, which indicates that your drug abuse began prior to your purported traumatic experiences. 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 to applying liberal consideration to your claimed mental health condition and its potential effect upon your conduct in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contentions, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your mental health issues, your advanced age, the character references you provided for review, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Additionally, after being identified as an in-service drug user, and even after discovering your unreported pre-service civil offense for drug possession, you were initially retained and afforded the opportunity to rehabilitate and continue serving. After your positive urinalysis on 31 August of 1984, you were assigned to a mandatory urinalysis screening program and to drug abuse treatment and evaluation, and you were again counseled that you were being retained provided that you complied with mandatory drug use counseling and monitoring. However, you proceeded to have positive results from your drug use urinalysis screening every week over the following five weeks, clearly reflecting your intent to continue use despite treatment efforts. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. 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 your request does not merit relief.

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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,

2/25/2026

