

from combat and racial discrimination. The Board denied your request on 1 December 2021. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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

The Board initially concluded you were appropriately discharged with a Dishonorable Discharge (DD) based on your conviction by a general court-martial (GCM). While the Board carefully considered your contention that you were not guilty of unauthorized absence (UA), treated unfairly due to your race, and only agreed to accept the DD as part of a pre-trial agreement, it was not persuaded by your argument. First, the Board observed your GCM conviction was for assault, destroying military property, and disobeying orders. The Board noted your prior special court-martial conviction (SPCM) involved periods of UA but those charges were dismissed and that conviction did not result in your DD. Further, contrary to your contention, the Board noted you pleaded not guilty at your GCM and there was no evidence you entered into a pre-trial agreement. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your DD and you were properly discharged based on your GCM conviction.

Because you raised the issue of mental health, the Board requested an AO. As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 21 August 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health issues (PTSD) during military service, which may have contributed to the circumstances of his separation from service.

Psychiatry record notes Petitioner was referred for evaluation while in correctional custody (dates nonsensical as one notes February 1960 and another February 1970). Note reads:

"He feels the Marine Corps has been grossly unjust in handling him and black [sic] people in general. He states he's now serving 4 months in the brig for one day U.A. and refusing to leave the PX when ordered to by the Sgt. Major of the Brigade. He feels that the Sgt. Major was unjust in asking him to leave because he was 'only attempting to buy some cigarettes.' He now states he will probably face a general court martial for three accounts of assaults, which he explains as follows:

- 1) [Sergeant] was unjustly assaulting a fellow prisoner and he intervened.
 - 2) A [Corporal] called him a "black bastard" and he retaliated by striking him.
 - 3) A [Captain] states he was struck by [Petitioner] when 'I was only trying to defend myself from getting hurt by brig personnel and, besides, I never touched him.'...
- "He is an extremely angry individual and, at times capable of interpreting actions and events directed against him when in actuality they are not." He was subsequently diagnosed with Antisocial Personality Disorder.

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. Although it is possible that he was treated poorly at times while in the Marine Corps, the nature and pervasiveness of his misconduct exceeds that of what would be expected to have been caused by PTSD or another mental health condition alone. His repetitive misconduct appears to be more aligned with his diagnosed Antisocial Personality Disorder. He did not submit any medical evidence in support of his claim.

The AO concluded, “it is my clinical opinion that there is insufficient evidence of a mental health condition (PTSD) 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 you provided no medical evidence in support of your claim. 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. 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 Kurta Memo, 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, the totality of your service that included service in Vietnam, your relative youth and immaturity at the time of your misconduct, your claims of racial discrimination and mistreatment, the advocacy letter you provided, your good conduct since your long-term incarceration in █ 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 noted that you were found guilty of serious offenses that involved assaulting brig personnel, disobeying orders, and destroying property. Further, the Board noted other aggravating factors in your record. Documents in your record annotate you escaped custody during which you “knocked someone out,” placed a belt around a fellow Marine’s neck, and dragged him behind a truck. These aggravating factors, combined with your two previous NJPs, GCM conviction, and SPCM conviction, increased the severity of your misconduct and therefore established a higher burden to justify equitable relief which you did not satisfy. Moreover, the Board 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 DD. 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. 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. Accordingly, 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.

Thus, given the totality of the circumstances, the Board determined 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,

1/27/2026

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