



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

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Docket No. 5146-25
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.

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 5 January 2026. 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, 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)/mental health condition (MHC) (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 on 2 September 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You previously applied to this Board for an upgrade to your characterization of service. You were denied relief on 19 November 2014¹, 19 November 2018, and 13 May 2024. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

¹ Based on the application of the statute of limitations.

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 removal of misconduct from your record. You contend that: (a) your discharge was wrongful, unjust, and based on a pattern of racial discrimination, disproportionate punishment, violation of your military legal rights, and a complete failure to acknowledge the impact of trauma and untreated mental health conditions, (b) you were discharged for allegedly being on unauthorized absence (UA) for approximately one hour and marijuana use, (c) you were falsely accused of stealing a pair of boots; an incident that led to your arrest, hard labor, and solitary confinement, (d) you were not offered legal counsel, nor the chance to explain or defend yourself, (e) you are suffering from severe PTSD and claustrophobia due to the time spent in isolation, (f) you struggle to maintain employment, form healthy relationships, and care for your children, and (g) your discharge has had a lasting negative impact on every part of your life. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted of your DD Form 149, your personal statement, and your Department of Veterans Affairs (VA) correspondence.

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

In a previous request for review, the Petitioner submitted a March 2020 civilian mental health evaluation noting he "could benefit from meeting with a mental health professional to address his depression." The Petitioner also provided a May 2020 civilian psychiatric evaluation listing diagnoses of PTSD, in partial remission; Marijuana Use Disorder, in partial remission; and Cocaine Use Disorder, mild, in remission. The evaluation described traumatic incidents during his military service, including "a superior officer who frequently addressed him with demeaning racial slurs and imposed penalties for minor or nonexistent infractions. Client was eventually given an OTH discharge after he was accused of stealing a pair of shoes that he had actually been allocated...he was assaulted and held in solitary confinement with sensory deprivation.

During military service, the Petitioner was evaluated and diagnosed with a substance use disorder. There is no evidence he was diagnosed with PTSD or another mental health condition during military service. Post service, the VA has noted diagnoses of PTSD and other mental health concerns. A civilian psychiatrist has attributed his diagnosis of PTSD to in-service traumatic precipitants. While it is plausible that exposure to traumatic events in service may have exacerbated substance use, it is difficult to attribute his misconduct to symptoms of PTSD. In service, the Petitioner's stated that his marijuana use was celebratory prior to entering the unit from which he incurred the purported traumas. It is difficult to attribute his misconduct to symptoms of undiagnosed PTSD given his pre-service substance use that appears to have continued in service.

The AO concluded, "it is my considered clinical opinion that there is post-service evidence from the VA and a civilian provider of a diagnosis of PTSD that may be attributed to military service.

There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition, other than substance use disorder.”

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 punishments and special court-martial conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug related offenses. 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 you provided no evidence, other than your personal statement, to substantiate your contentions of mistreatment and denial of due process. Therefore, the Board was not persuaded by your arguments and determined the presumption of regularity applied to your court-martial, non-judicial punishment, and administrative separation proceedings.

Additionally, the Board concurred with the AO that there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition, other than substance use disorder. 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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO. However, 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 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,

1/14/2026

