



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 5607-25
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 6 March 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, 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. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You previously applied to this Board contending clemency factors of youth, immaturity, and dissatisfaction with negativity and tension during your service. Your previous request was considered on 19 January 2000 and denied. You sought reconsideration upon substantially similar contentions, which were considered on 29 November 2012 and again denied. The summary of your service as described below remains substantially unchanged from that addressed in the Board's previous decision. The following is the relevant factual background of

your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Marine Corps Reserve and began an initial six-month period of active duty training, during which you received nonjudicial punishment (NJP) for an unauthorized absence (UA). You were discharged under Honorable conditions into the Reserve but requested extended active duty for a period of 18 months. Your request was approved and you began a second period of active duty on 2 May 1974.

2. You received NJP three times in June and July 1974, shortly after returning to active duty, for repeated violations of Article 86, Uniform Code of Military Justice (UCMJ) due to UAs and failure to report to duty on time. You received two additional NJPs in August 1974 for three additional periods of UA. On 31 October 1974, you absented yourself without authority and remained absent until 4 November 1974, for which you received your sixth NJP.

3. On 2 December 1974, you submitted a request mast requesting two weeks of leave to assist your wife with post-partum care of your newborn infant, and you were granted six days.

4. On 28 January 1975, you were issued administrative counseling and notified you that you were being recommended for discharge by reason of unfitness due to your failure to show improvement concerning your frequent involvement of a discreditable nature with military authorities. You requested a hearing before an administrative separation board but then absented yourself without authority on 5 March 1975.

5. On 12 March 1975, you returned in time for your hearing to convene on 27 March 1975. Your leadership testified during the proceedings that you should have received another NJP for an additional four UAs. You provided testimony, to include explaining the circumstances for several of your absences. The members found the basis for discharge to be supported by the evidence and recommended that you be issued an undesirable discharge. While the recommendation for your separation was being routed for decision, you incurred at least two additional UA periods. The recommendation of the administrative separation board was approved and you were discharged under Other Than Honorable (OTH) conditions on 15 May 1975.

6. Post-service, you applied to the Naval Discharge Review Board (NDRB) contending that you experienced harassment, unjust punishment, and a disproportionately harsh characterization of service for a young man with a wife and newborn who did not understand much about life at the time you were serving. Your request was considered on 22 October 1979 and denied.

In your application to this Board, you express a desire for your discharge character of service be upgraded and your reason for separation be changed to Secretarial Authority. You contend that:

1. Your discharge under OTH conditions was a material error and was unjust because it was unduly harsh for relatively minor misconduct when you were a very young Marine faced with extreme familial stress.

2. You attempted to resolve the situation on multiple occasions, such as your request masts, but you were denied proper assistance.
3. You feel that your OTH characterization, issued over 45 years ago when you were barely over the age of 18, robs you of your good name and improperly stigmatizes you.
4. You had applied to transfer to another unit, the division band, and had been offered the opportunity to join that unit to avoid an unfavorable discharge.
5. You realize that you should not have missed duty or been late for work, but your transportation was impacted after someone borrowed your car without your permission and crashed it.
6. You sought a hardship discharge because your wife was having severe medical issues with her high-risk pregnancy which resulted in a c-section operation.
7. You were assaulted by your gunnery sergeant after requesting to leave to transport your wife and newborn home from the hospital.
8. You were given insufficient opportunity to rehabilitate or acclimate to the environment of active duty after your initial reserve duty.
9. You currently work as a contractor with the Department of Veterans Affairs (VA) and have rehabilitated yourself professionally.
10. Numerous people write on your behalf, having witnessed you overcome struggles with your disabilities.

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 of mitigation and argue of error due to your treatment under the personal circumstances you were experiencing at the time, the Board noted you did not deny committing the misconduct that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

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

There is no evidence he was diagnosed with PTSD or another mental health condition during military service. Temporally remote to his military service, the Petitioner has received diagnoses of PTSD, TBI, and other mental health concerns

from the VA that may be attributed to military service. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given chronic misconduct prior to the purported assault and in-service expressions of dissatisfaction with the Marines. 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, "Based on a review of all available evidence, it is my considered clinical opinion that there is some post-service evidence from VA providers of diagnoses of PTSD, TBI, and other mental health concerns that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD, TBI, or another mental health concern."

The Board applied liberal consideration to your claim that you suffered from a mental health condition and TBI, 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 sufficient evidence of a diagnosis of mental health condition and TBI that may be attributed to military service. This conclusion is supported by the AO and your temporally remote medical evidence. 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. 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 cumulative 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 desire for an upgrade to your characterization of service and change to your reason for separation, your contentions regarding the circumstances surrounding your misconduct, 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 TBI and mental health issues, the harshness of your punishment, your advanced age, the evidence 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 found that your disciplinary records demonstrate a clear pattern of repeated, chronic periods of UA and disregard for basic military discipline. While the Board noted that many of those absences were brief and appear tied more

to difficulty adjusting to the early morning schedule of mess duty, you also incurred periods of absence for multiple days, increasing in frequency over time despite counseling warnings. In total, you received seven NJPs during your second period of active duty lasting approximately 12 months. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Further, the Board noted you did not submit any evidence of post-discharge character or accomplishments which might demonstrate that you eventually rehabilitated yourself or became a contributing member of society.¹ While the Board commends you for your post-service rehabilitation attempts, 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 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,

3/26/2026



¹ Your application referenced advocacy letters but none were received by the Board with your application.