



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

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Docket No. 5644-25
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.

Although you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). 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 or injustice were reviewed in accordance with the 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 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). As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an Advisory Opinion (AO). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case on the evidence of record.

You enlisted in the U.S. Marine Corps (USMC) and began a period of active duty on 17 August 1998. During your enlistment processing you disclosed marijuana use and were granted an enlistment waiver. On 19 August 1998, you signed the Marine Corps policy concerning the illegal use of drugs. In August 2000, you were issued administrative remarks documenting that you were not recommended for promotion due to concerns regarding a lack of judgment. On

5 January 2001, you received nonjudicial punishment (NJP) for a period of unauthorized absence and for failing to obey a lawful order by wrongfully consuming alcohol while underage. On 24 January 2001, you received a second NJP for an 11-day period of UA that ended with your apprehension, for engaging in sexual intercourse with a woman not your wife, and for breaking restriction.

On 23 August 2001, you submitted a voluntary statement to the Naval Criminal Investigative Service (NCIS) admitting to the use of marijuana on two separate occasions during your military service. Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps for drug abuse; at which time you elected your right to consult with counsel and waived your right to present your case to an administrative discharge board. On 2 January 2002, you were evaluated at the Consolidated Substance Abuse Counseling Center, which determined you did not meet the Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria for drug abuse or dependence; however, you were diagnosed with cannabis use. Your commanding officer recommended you be discharged with an Other Than Honorable (OTH) characterization of service, which was approved by the separation authority. On 8 May 2002, you were so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 to upgrade your discharge and your contentions that you suffered from Traumatic Brain Injury (TBI), Post Traumatic Stress Disorder (PTSD), and other mental health concerns during military service. Specifically, you contend that: (1) you were followed and almost kidnapped in 1991 at the age of 11, (2) you never received counseling or therapy until now as an adult, (2) you have dealt with PTSD your whole life and used marijuana occasionally to cope with it, (3) you admitted to using during service time and never had a chance for NJP or court-martial, (4) you were just a lost kid and needed help but didn't know how to ask for it then, (5) you just started talking to a mental health expert and she has helped you discover that this even has caused PTSD since happening, (6) she realizes you used various drugs over your adult life to cope with this, and (7) therapy and church are helping you understand and cope better. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of it.

Based on your assertions that you incurred TBI, PTSD and other mental health concerns during military service, which may have contributed to the circumstances of your separation, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO on 30 September 2025. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His substance use disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. There is no evidence of another mental health condition in service. Temporally remote to his military service, he has provided medical evidence of diagnoses of TBI, PTSD, and another mental health condition. Unfortunately, there is insufficient information regarding these diagnoses to

attribute them to military service. There are conflicting reports regarding his medical and substance use history that raise doubt regarding his candor or the reliability of his recall. 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 some post-service evidence from civilian providers of diagnoses of TBI, PTSD, and other mental health concerns. There is insufficient evidence to attribute his diagnoses of TBI, PTSD, and other mental health concerns to military service. There is insufficient evidence that his misconduct may be attributed to TBI, PTSD, or another mental health condition other than substance use disorder."

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and admitted service related drug abuse, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it involved drug 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. The Board also 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 OTH discharge. 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. Further, the Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would clearly be inappropriate; a standard the Board found was not met in your case.

Finally, the Board concurred with the AO that there is insufficient evidence to attribute your misconduct to TBI, 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 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. 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 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,

1/16/2026

