



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

██████████
Docket No. 5665-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. 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 this 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). Additionally, the Board also considered the advisory opinion (AO) furnished by a qualified mental health provider. Although you were provided an opportunity to respond to the AO, you chose not to do so.

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 U.S. Marine Corps and began a period of active duty service on 19 June 1984. Your enlistment physical examination, on 3 April 1984, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, history, or counseling. On

your enlistment application, you disclosed pre-service marijuana use and received an enlistment waiver for pre-service juvenile offenses.

2. On 13 June 1985, your command issued you a “Page 11” counseling (Page 11) where you understood that you were eligible but not recommended for promotion to Corporal (E-4) because of a lack of responsibility and tactical knowledge in fire team and squad tactics. You elected not to submit a Page 11 rebuttal statement.

3. On 21 July 1986, you received non-judicial punishment (NJP) for an unauthorized absence (UA). You did not appeal your NJP.

4. On 20 May 1987, you were acquitted at a Special Court-Martial (SPCM) for wrongful use of a controlled substance.

5. On 5 January 1988, you submitted a voluntary written request for an administrative discharge for the good of the service to avoid trial by court-martial for the wrongful use of a controlled substance (marijuana). You consulted with counsel prior to submitting such request, and you acknowledged if your request was approved, the characterization of service will be under other than honorable conditions (OTH). As a result of this course of action, you were spared the stigma of a court-martial conviction for your offense, as well as the potential sentence of confinement and the negative ramifications of likely receiving a punitive discharge.

6. On 19 January 1988, the Staff Judge Advocate to the Separation Authority (SA) determined that your discharge proceedings were legally and factually sufficient. On 22 January 1988, the SA approved your discharge request in lieu of trial by court-martial and directed an OTH discharge characterization. Your separation physical examination, on 5 February 1988, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, history, or counseling.

7. Ultimately, on 19 February 1988, you were separated from the Marine Corps in lieu of a trial by court-martial with an OTH discharge characterization and were assigned an RE-4 reentry code.

8. On 26 August 1992, the Naval Discharge Review Board (NDRB) denied your initial discharge upgrade application. You did not proffer any mental health-related contentions with your NDRB application but, instead, focused mainly on family-related concerns.

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 request to be separated in lieu of trial by court-martial. While the Board carefully considered your contention for mitigation, the Board noted you did not deny committing the misconduct that formed the basis for 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 raised the issue of mental health, the Board also requested an AO. A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 15 September 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral [changes] indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Temporally remote to his military service, a civilian provider has provided treatment for PTSD attributed to military service. Unfortunately, there are inconsistencies in the Petitioner's statement over time that raise doubt regarding his candor or the reliability of his recall. It is difficult to attribute his marijuana use to mental health concerns which onset in-service, particularly given pre-service behavior that appears to have continued in service.

The Ph.D. concluded, "it is my considered clinical opinion that there is some post-service evidence from 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."

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 and your post-service 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.

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 a upgrade to your characterization of service, your contentions, the totality of your service, your need for veterans' benefits, 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 mental health issues, your advanced age, the advocacy letter 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 Marine Corps core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. Moreover, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. The Board also determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial, thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your wrongful use of a controlled substance while on active duty outweighed the mitigation evidence offered.

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 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,

3/20/2026

