



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

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Docket No. 5977-25
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 13 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 an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided an opportunity to respond to the AO, 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 based on the evidence of record.

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 18 June 1976. Your enlistment physical examination, on 30 September 1975, and self-reported medical history both noted no neurologic or psychiatric conditions or symptoms.
2. On 6 February 1978, you received non-judicial punishment (NJP) for two (2) separate specifications of failing to obey a lawful order. You did not appeal your NJP.
3. On 25 May 1978, you received for insubordinate conduct. You did not appeal your NJP. A portion of your punishment was suspended.
4. On 3 August 1978, your command vacated and ordered executed all suspended punishment from your May 1978 NJP due to your continuing misconduct. That same day, you received NJP for: (a) unauthorized absence (UA), and (b) two (2) separate specifications of failing to obey a lawful order. You did not appeal your NJP.
5. On 14 November 1978, you received NJP for UA. You appealed your NJP. However, higher authority denied your NJP appeal on 20 December 1978.
6. On 20 December 1978, your command issued you a "Page 11" warning (Page 11) documenting your pattern of misconduct. The Page 11 expressly advised you that repeated UCMJ violations, if uncorrected, could lead to an administrative discharge.
7. On 9 January 1979, you received NJP for willfully disobeying a superior commissioned officer. You did not appeal your NJP.
8. On 9 July 1979, you were convicted at a Summary Court-Martial (SCM) of two (2) separate UA specifications. The SCM Officer sentenced you to a reduction in rank to the lowest enlisted paygrade (E-1), forfeitures of pay, and hard labor without confinement for thirty (30) days. The Convening Authority approved the SCM sentence.
9. On 31 July 1979, your command notified you of administrative separation procedures by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You consulted with counsel and elected your rights to submit statements and to present your case at a hearing before an administrative separation board (Adsep Board).
10. On 7 November 1979, an Adsep Board convened in your case. At the Adsep Board, you were represented by counsel and you provided sworn testimony on your own behalf. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously voted to retain you.
11. On 3 January 1980, you received NJP for insubordinate conduct. You appealed your NJP; however, higher authority denied your NJP appeal on 25 January 1980. On 11 February 1980, your command issued you a Page 11 concerning your unsatisfactory conduct as a Marine.
12. On 10 April 1980, you received NJP for: (a) attempting to obtain a free meal while on commuted rations, (b) disrespect to a superior commissioned officer, and (c) two (2) separate

specifications for willfully disobeying a superior commissioned officer. A portion of your punishment was suspended for six months. You appealed your NJP; however, higher authority denied your appeal.

13. On 22 April 1980, your command re-notified you of administrative separation procedures by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On or about 6 May 1980, you consulted with counsel and again elected your rights to submit statements and to present your case at an Adsep Board.

14. In the interim, your commanding officer (CO) recommended to the Separation Authority (SA) that you should receive a discharge under less than honorable conditions. On 7 May 1980, the immediate superior in the CO's chain of command (ISIC) strongly recommended approval of your CO's recommendation. The ISIC stated, in pertinent part:

[Petitioner] is a highly disruptive counterproductive individual whose sole concept of military duty is to pick up his paycheck twice a month. He has been give innumerable "second chances" and has shown no sign of a desire to be an honorable, productive Marine.

15. On 12 May 1980, your command vacated and ordered executed all suspended punishment from your April 1980 NJP due to your continuing misconduct. On the same day, you received NJP for: (a) UA, (b) failing to obey a lawful order, and (c) six (6) separate specifications of willfully disobeying a superior commissioned officer. You did not appeal your NJP.

16. Your separation physical examination, on 29 May 1980, and self-reported medical history both noted no neurologic or psychiatric conditions or symptoms.

17. On 5 June 1980, a second Adsep Board convened in your case. At the Adsep Board, you were again represented by counsel and provided sworn testimony on your own behalf. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously recommended that you be separated with an under Other Than Honorable conditions (OTH) discharge characterization.

18. On 12 June 1980, the Staff Judge Advocate to the Separation Authority determined that your separation proceedings were legally and factually sufficient. Ultimately, on 16 June 1980, you were separated from the Marine Corps for a pattern of misconduct with an OTH discharge characterization and assigned an RE-4 reentry code.

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

1. You were erroneously discharged without a medical evaluation board.
2. You believe your discharge was unfair at the time and remains so now.

3. Your discharge was both procedurally defective and inequitable.
4. Your service-connected injuries should have allowed you to receive a medical evaluation and transfer to the veterans administration.
5. You request that such injuries be taken into account and you be given liberal consideration.
6. You served your country with sincerity and distinction but suffered undue hardship stemming from systemic racial bias, procedural irregularities, and inadequate behavioral health support.
7. Such factors culminated in an inequitable discharge that continues to misrepresent the honor with which you served and diminish your ability to access service-related benefits.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contention for mitigation and argument that you were erroneously discharge due to existing disability conditions, 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 dated 1 December 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

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

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any symptoms of a mental health condition. He did not submit any medical evidence in support of his claim. Furthermore, the events described that caused his reported PTSD do not meet criteria as per DSM-V-TR guidelines. Additionally, his repetitive and extensive misconduct across multiple commands is not typical behavior caused by a mental health condition or PTSD.

The Ph.D. concluded, "Based on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition 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 claims. 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 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 and changes to your reason for separation and reentry code, 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 claims of mental health issues and other service connected conditions, disparate treatment between you and others to include your claims of racism, your advanced age, 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 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. You had a total of eight NJP, of which three, occurred after your initial retention by the Adsep Board. In the Board's opinion, this was an aggravating factor that substantiated your CO's rationale of why an OTH characterization of service was appropriate in your case and undercut your arguments of unfair treatment. The Board concluded 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. 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. 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. Based on the same rationale, the Board also determined your reason for separation and reentry code remain appropriate.

Regarding your request for a disability discharge, the Board found insufficient evidence to support your request. First, the Board noted that there was no evidence in your service record that you were ever found unfit for further service with any injuries that would or could trigger the medical board-Physical Evaluation Board processes. Second, even if such evidence of unfitness existed in your record, the Board determined you were ineligible for disability processing or benefits based on your misconduct based administrative separation that resulted in an OTH discharge. Service regulations directed misconduct based administrative separation processing to supersede any disability processing.

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

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Executive Director

Signed by: █