



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

█
Docket No. 6082-25
Ref: Signature Date

█
█
█

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 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 30 December 2025. 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 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) furnished by a qualified mental health professional. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 1 April 1991. On 2 April 1991, you were issued an administrative remarks (Page 13) retention warning counseling concerning your defective enlistment and induction due to your fraudulent entry into the naval service as evidenced by your failure to disclose your pre-service civil involvement and drug abuse. On 19 March 1992, you reported to █ for duty. On 3 September 1993, you received non-judicial punishment (NJP) for failure to obey order or regulation. On 21 January 1994, you were issued a Page 13 retention warning counseling concerning deficiencies in your performance and/or conduct; specifically, your failure to follow written medical treatment plan for pseudofolliculitis barbae. On 10 August 1994, Navy Drug Laboratory, █ reported

that your urine sample tested positive for THC (marijuana). On 12 August 1994, you received your second NJP for wrongful use of marijuana.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense and drug abuse. You elected your right to consult with counsel and to present your case to an administrative discharge board (ADB). On 21 November 1994, the ADB was convened and found the preponderance of the evidence supported a finding that you committed misconduct. The majority of the ADB recommended your administrative discharge from the Navy with a General (Under Honorable Conditions) (GEN) characterization of service. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] has no potential for further naval service. He is not capable of conforming to the rules and regulations of this ship and the Navy and is simply unwilling to conduct himself in a manner within the standards of good order and discipline. His discharge is strongly warranted. I recommend that his discharge be characterized as Other Than Honorable.

The separation authority approved the ADB's recommendation for the basis of your separation as misconduct due to drug abuse and directed your administrative discharge with a General (Under Honorable Conditions) characterization of service. You were so discharged on 22 January 1995.

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 to upgrade your discharge character of service and contentions that you were unfairly targeted in a shooting incident by civilian authorities and charged despite the lack of any evidence linking you to the crime¹. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statement, and advocacy letters.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 16 November 2025. The AO stated in pertinent part:

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 (PTSD). The Petitioner did not submit any medical evidence to support his claim. His personal statement is not sufficiently detailed to provide a nexus between any mental health diagnoses and in-service misconduct. Additional

¹ The Board found no evidence related to your civil misconduct in your service record. Your commanding officer's endorsement of your administrative separation processing specifically stated "None" when describing your involvement with civilian authorities. Therefore, while the Board considered your statement of events, it was determined to be not relevant to your discharge.

records (e.g., active-duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition (PTSD) that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. 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. Additionally, the Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your GEN 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 found that your misconduct was intentional and made you unsuitable for continued naval service. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your service fell well below the minimum standards for an Honorable characterization of service.

Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition (PTSD) that existed in service and there is insufficient evidence to attribute your 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 claim. 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 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,

1/16/2026

■

Executive Director

Signed by: ■