



2. On 14 August 2006, your command was notified that your urine sample tested positive for marijuana use. Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse. You elected to consult with legal counsel and initially requested an administrative discharge board (ADB). However, you later entered into a pre-trial agreement (PTA) to plead guilty to drug abuse at a summary court-martial (SCM) and waive your right to an ADB in exchange, in part, to sentencing protection from confinement, forfeitures, or fines.

3. On 18 October 2006, you pleaded guilty at Summary Court Martial (SCM) to wrongful use of marijuana. In accordance with your PTA, you were only sentenced to reduction in rank to E-1 and hard labor without confinement. Additionally, according to the terms of your PTA, you waived your right to an ADB. Ultimately, the separation authority directed your discharge with an OTH and you were so discharged on 4 December 2006.

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 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. As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 17 November 2025. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to the circumstances of his separation from service.

In November 2005, the Petitioner was "placed on LIMDU [Limited Duty] for panic disorder, social phobia...by aviation medicine."

In April 2006, he returned for a follow-up mental health evaluation in the context of expiring LIMDU. He stated that he had not received mental health treatment "due, to his report, the difficulty in obtaining appointments." He was diagnosed with Panic Disorder without Agoraphobia and Social Phobia and began individual treatment, which he continued on a monthly basis through June 2006.

In August 2006, the Petitioner was evaluated by emergency services for suicidal ideation. He was referred for outpatient follow-up and his diagnoses did not change. The mental health provider deemed him responsible for his actions and did not assign any duty limitations.

He has been granted service connection for Major Depressive Disorder, effective December 2006 and for PTSD, effective April 2012.

There is evidence that he was diagnosed with mental health concerns during his military service. There is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to mental health concerns, particularly given his pre-service substance use that appears to have continued in service.

The AO concluded, “it is my considered clinical opinion that there is in-service evidence of mental health concerns and post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another 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 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 in-service diagnoses. 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 contentions, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your mental health issues, 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, 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. Further, the Board 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 OTH discharge. You were allowed to enter the Navy despite your extensive history of drug abuse that appeared to continue while on active duty. 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. Finally, the Board

considered that you provided no evidence in support of your application. Therefore, even taking into consideration your youth and immaturity, the mental health conditions you experienced while on active duty, and your current mental health issues, 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,

3/19/2026

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Executive Director

Signed by: █