



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

██████████
Docket No. 6703-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 9 February 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 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 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). 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.

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 in August 2002. As part of your enlistment processing, you signed a Statement of Understanding (SOU) acknowledging the U.S. Marine Corps' policy regarding illegal drug use.

2. During your period of active service, you deployed on two occasions in support of Operation Iraqi Freedom. You were also formally counseled in connection with a driving under the influence (DUI) infraction and, on more than six occasions, you were not recommended for promotion due to documented deficiencies, primarily failure to meet required body composition standards.

3. On 4 July 2006, you were counseled regarding the requirement to undergo a Medical Officer's Evaluation (MOE) in connection with your previously referenced DUI, and you declined to comply with that requirement.

4. On 1 August 2006, you were placed in a legal hold status pending adjudication of charges by court-martial.

5. On 17 August 2006, you were found guilty at a Summary Court-Martial (SCM) of 18 total specifications of violating of Article 92, Uniform Code of Military Justice (UCMJ), that included: one specification wrongfully violating a general order by wrongfully possessing drug paraphernalia, four specifications of wrongfully failing to register your firearms, twelve specifications of wrongfully possessing ammunition in your barracks room, and one specification of failing to register five knives primarily designed for offensive or defensive use. You were also found guilty of two specifications in violation of Article 112a, UCMJ, for wrongful use of amphetamine and wrongful use of methamphetamine, and one specification of Article 121, UCMJ, of stealing ammunition of the U.S. government. You were sentenced to forfeiture of \$849.00 pay per month for one month, 30 days of confinement, and reduction in paygrade to E-1.

6. Subsequently, you were notified of your pending administrative processing by reason of misconduct due to drug abuse, at which time you waived your procedural right to present your case to an administrative discharge board after consulting with counsel.

7. On 22 August 2006, you were again counseled regarding the requirement to undergo a Medical Officer's Evaluation (MOE) in connection with your previously referenced DUI and again declined to comply with that requirement.

8. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 25 August 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. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and no error exists with your OTH characterization of service.

Based on your assertions that you incurred PTSD and TBI during military service, which may have contributed to the circumstances of your separation from service, a qualified mental health

professional reviewed your request for correction of your record and provided the Board with an AO on 1 December 2025. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated. He was diagnosed with PTSD and another mental health condition. PTSD was attributed to combat exposure. His other mental health condition was attributed to a pre-service depressive disorder that was exacerbated by military service. Post-service, the VA has granted service connection for a mental health condition. There is no evidence of TBI, and the Petitioner has provided no evidence. It is possible that disobedience, UA, and failure to maintain physical standards could be conceptualized as behavioral indicators of irritability, avoidance, and apathy associated with PTSD and other mental health concerns. It is difficult to attribute larceny to a mental health condition. It is possible that his problematic alcohol and substance use may have been attempts at self-medication of mental health concerns. 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 in-service evidence of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence of a diagnosis of TBI. There is insufficient evidence that all of his misconduct may be attributed to PTSD or another mental health condition."

The Board applied liberal consideration to your claim that you suffered from TBI and PTSD, and to the effect that these conditions 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 PTSD that may be attributed to military service. This conclusion is supported by the AO and medical evidence from your service. However, the Board did not find sufficient evidence of a diagnosis of TBI that may be attributed to military service. This conclusion is also supported by the AO and the fact you provided no medical evidence to support this claim. Regardless, even applying liberal consideration, the Board found insufficient evidence to conclude that all the misconduct for which you were discharged was excused or mitigated by your PTSD or TBI. 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 TBI, 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, 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 post-service record of accomplishments,

your mental health issues, the family related mitigation circumstances you were experiencing at the time, the character references 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 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, and a reckless disregard for the safety of others. In reviewing the offenses for which you were convicted by a SCM, the Board was alarmed by, not only the multiple violations of safety related orders, but also the sheer volume of larceny offenses which indicated a lack of integrity. The Board determined your mitigation evidence was insufficient to outweigh these factors. 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. While the Board commends you for your post-service accomplishments, 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 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,

2/27/2026

