



proper as issued. The summary of your service remains substantially unchanged from that addressed in the Board's past decisions.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately issued a Bad Conduct Discharge (BCD) based on your special court-martial (SPCM) conviction and sentence. 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 SPCM conviction and BCD. The Board also considered that your SPCM conviction and sentence received an appellate review that found no errors. Therefore, the Board determined the presumption of regularity applies to your SPCM conviction and punitive discharge, and no error exists with your record.

However, because you again contend that you suffered from a mental health condition that contributed to your misconduct, the Board reconsidered the AO prepared as part of your previous application. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an inpatient hospitalization. His personality and substance use disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. Temporally remote to his military service, he has received a diagnosis of PTSD from a VA-affiliated psychologist who attributed the diagnosis to military experiences. Unfortunately, it is difficult to attribute his misconduct to symptoms of undiagnosed PTSD, given pre-service substance use behavior that appears to have continued in service. 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, "There is post-service evidence 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, other than substance use disorder."

In response to the AO and this Board's previous decision, you submitted additional evidence in support of your current application. After reviewing your rebuttal evidence, the AO remained unchanged.

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 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. 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 contentions, the totality of your service, 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 mental health issues, the harshness of your punishment, your advanced age, your claims of error with the Board's previous reviews, 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 and distribution onboard a naval vessel 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 BCD. 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 was not persuaded by your arguments that the Board's previous review was erroneous and failed to apply existing guidance on mental health issues. In its most recent decision, the Board clearly discussed the application the required mitigation factors associated with mental health claims but, as with your current application, found insufficient evidence of a nexus between your mental health condition and your misconduct. That Board agreed with the AO that your pre-service drug abuse history indicates your misconduct was simply a continuation of your prior misconduct. Additionally, and more importantly, the current Board could find no reasonable nexus between your mental health condition and the distribution of methamphetamine onboard a naval vessel. Furthermore, both the prior and current Board also found that the seriousness of your misconduct outweighed any mitigation offered by your mental health condition. Contrary to your contention that policy guidance requires the granting of relief in any case involving substantiated mental health conditions, the Board determined the policy guidance contains specific elements that must be met, e.g. the finding of a nexus to the misconduct, and requires the weighing of mental health mitigation evidence against the

seriousness of the misconduct to support relief. Based on its review, the Board found insufficient evidence that these factors were not considered in denying your previous application.

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 noted that flawless service is not required to receive a General (Under Honorable Conditions) or Honorable characterization of service, the nature and gravity of your misconduct led them to conclude that your service was neither.

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,

3/6/2026

