



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 Marine Corps and commenced active duty on 17 October 1995. On 18 October 1995, you received a fraudulent enlistment waiver for failing to disclose information requiring a drug waiver.
2. You joined your unit for duty on 1 March 1996. On 28 May 1996, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct, specifically underage drinking. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.
3. On 7 March 1997, you were issued Page 11 counseling after completing a substance abuse awareness course following an alcohol-related incident. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.
4. On 29 April 1997, you pleaded guilty at Special Court Martial (SPCM) to wrongful use of marijuana, wrongful possession of marijuana, wrongful introduction of marijuana onto a military base with intent to distribute, and wrongful distribution of marijuana on divers occasions. You were sentenced to reduction in rank to E-1, forfeitures, confinement, and a Bad Conduct Discharge (BCD). You were released from confinement on 31 August 1997 and commenced appellate leave on 27 October 1997.
5. On 20 January 1998, you declined in-patient substance abuse treatment stating that you did not need treatment because you did not use drugs. Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 9 April 1998.

In your application to this Board, you express a desire for your discharge character of service be upgraded to General (Under Honorable Conditions) and contend that:

1. You incurred PTSD, anxiety, chronic fatigue, major depression, TBI, and several other medical conditions due to your participation in “real-time war training simulations” and service in a hostile and unfriendly country.
2. You suffered from anger, mood swings, impulses to hurt others, withdrawal, memory loss, and inappropriate behavior during your service. You currently still suffer from symptoms of the above conditions and need benefits to address your health and unemployability.

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

The Board initially concluded you were appropriately discharged with a BCD based on your SPCM conviction and sentence. The Board noted you admitted to committing the misconduct that formed the basis of your SPCM conviction. Therefore, the Board determined the presumption of regularity applies to your punitive discharge and no error exists with your record.

However, because you raised the issue of mental health and TBI, the Board also applied liberal consideration to your claim that you suffered from mental health conditions and TBI, 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 insufficient evidence of a diagnosis of mental health condition or TBI that may be attributed to military service. This conclusion is supported by the fact you provided no medical evidence in support of your claim and chose not to respond to the Board's request for 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 determined drug distribution is not the type of misconduct normally associated with a mental health condition or TBI. 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 drug-related misconduct more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying 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, the Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions, the totality of your service to include service highlights, 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 mental and physical health issues, the harshness of your punishment, the evidence you provided in support of your application, 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 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. The Board found that your conduct showed a complete disregard for military authority and regulations. 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. In making this finding, the Board noted you provided no evidence, other than your statements, in support of your application. Additionally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. While the Board considered your possible need for benefits to address your health and unemployment concerns, they determined the severity of your misconduct outweighed any mitigation resulting from those factors. Finally, the Board believed that it would be unjust to characterize you 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. While the Board acknowledged the personal difficulties you have endured, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

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,

4/13/2026

