



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

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Docket No. 7678-25

Ref: Signature Date

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Dear Petitioner:

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

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session, on 20 January 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional and your response to the AO.

You previously applied to this Board for a discharge upgrade, change of your narrative reason for separation to disability, change to your reenlistment code to RE-R1, and change to your SPD code. You were granted partial relief, on 30 September 2021, when this Board recommended your discharge characterization be upgraded to General (Under Honorable Conditions) (GEN). However, that Board recommended no additional relief. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 misconduct¹ and ineligible for a Good Conduct Medal based on your misconduct and time in service. While the Board carefully considered your denial of certain acts of misconduct, the Board did not find your contentions persuasive. The Board noted you provided no evidence, other than your statement, to substantiate your allegation you were unfairly punished for misconduct you did not commit. The Board also noted you admitted to some 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, were reduced in rank due to your misconduct, and were properly separated for misconduct with an Other Than Honorable (OTH) characterization of service².

Because you raised the issue of mental health, the Board requested an AO. As part of the Board review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 18 December 2025. The Ph.D. stated in pertinent part:

Petitioner was formally evaluated during military service. He received no formal mental health diagnosis. The absence of diagnosis was 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.

Petitioner received mental health counseling for approximately one year in service, from approximately April 1995 to July 1996. There is no record of reported mental health symptoms related to his purported traumatic precipitant during his extensive encounters with mental health providers over that period. Temporally remote to his military service, the VA has granted service connection for PTSD. It is possible that PTSD symptoms were delayed in their onset and thus are not found in available service records.

A post-service civilian psychologist has considered that the Petitioner's misconduct was related to mental health symptoms that were untreated in service. However, more weight has been given to the in-service record and evidence of mental health treatment while he was in service.

Additionally, it is difficult to attribute his misconduct to mental health concerns, when he claims that he did not engage in misconduct and that he unjustly singled out for adjudication. Supplementary 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.

¹ The Board determined you were properly discharged for misconduct and not a disability condition. Even if you possessed a disability condition, the Board further determined you were ineligible for disability processing based on your administrative separation for misconduct and assigned OTH characterization of service. Furthermore, the Board noted that they do not have the authority to change your separation reason to "PTSD" since that is not an authorized reason for separation on the DD Form 214 under existing service regulations.

² While this Board previously upgraded your discharge characterization of service, its decision was based on a finding of injustice vice error.

The Ph.D. concluded, “it is my considered clinical opinion that there is post-service evidence from the VA and a civilian psychologist of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition.”

In response to the AO, you provided an additional statement in support of your 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-discharge diagnosis from the Department of Veterans Affairs (VA). 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, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your mental health issues, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your service to your community, 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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive, despite being relatively minor, to negatively affect the good order and discipline of your command. Furthermore, the Board determined that you already received a large measure of clemency in your last petition when your characterization of service was upgraded to GEN. The Board found this extraordinary grant of relief to be sufficient to address any injustice issues in your record and determined no additional relief was merited based on your mitigation evidence. 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 additional discharge upgrade, change to your reason for separation, restoration of your rank to E-4, service credit, or awarding of the Good Conduct Medal to be warranted in the interests of justice³.

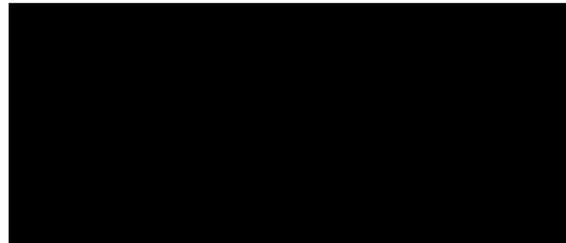
Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, regarding your request to administratively add your missing award and badge to your record, the Board noted you did not administratively exhaust your remedies. You must first contact Headquarters, U.S. Marine Corps (HQMC) MMPB-21 at 703-784-9204 or email: smb.manpower.mmrp-10@usmc.mil to request they administratively correct your record.

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,

1/29/2026



³ The Board does not have the statutory authority to change your VA compensation effective date. That lies under the exclusive cognizance of the VA. Therefore, the Board took no action on this aspect of your application.