



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

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Docket No. 7850-25
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 2 March 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, 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)/mental health condition (MHC) (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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional on 30 December 2025. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

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 began a period of active duty on 4 December 2006. Prior to your enlistment, you admitted preservice use of marijuana.

2. On 7 August 2007, you began a period of unauthorized absence (UA) which lasted 160 days and resulted in your apprehension by civil authorities. The Board found no evidence in your record that you were subject to punishment for your misconduct.

3. On 3 September 2008, you were counseled concerning a pattern of misconduct, specifically failing to display an acceptable level of judgement. You were advised that failure to take corrective action could result in administrative separation.

4. On 2 March 2009, you received nonjudicial punishment (NJP) for a period of UA from appointed place of duty. Consequently, you were counseled concerning your conduct leading to NJP and advised that failure to take corrective action could result in administrative separation.

5. On 15 March 2010 you were evaluated by a medical officer as a result of suicidal ideations and diagnosed with Adjustment Disorder with Depressed Mood (Substance-Induced Mood) Alcohol Dependence, Marital Social, and Occupational Problems.

6. On 28 April 2010, you were referred to the Substance Abuse Rehabilitation Program after receiving a diagnosis of alcohol dependence due to your March 2010 alcohol related incident.

7. On 7 May 2010 and 21 September 2010, you were counseled for your assignment to the BCP program and poor performance, insubordinate conduct, and belligerence displayed to the officer of the day, respectively. You were advised that failure to take corrective action could result in administrative separation.

8. On 30 September 2010, after testing positive on a urinalysis, you were counseled concerning illegal drug use and advised that you will be processed for administrative separation with an Other Than Honorable (OTH) discharge characterization.

9. Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214) reveals that you were separated from the Marine Corps, on 4 May 2011, with an Other Than Honorable (OTH) characterization of service, narrative reason for separation of "Misconduct," separation code of "GKK," and reentry code of "RE-4B." Your separation code is consistent with a discharge due to drug abuse.

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 that your urinalysis was a false positive and you were denied legal representation, the Board noted you provided no evidence, other than your statement, to substantiate your contention. Further, the Board noted you did not deny your other misconduct that was documented in your record.

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, the Board considered the AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated, including during an inpatient hospitalization. His depressive and alcohol use disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. There is no evidence of a diagnosis of PTSD and he has provided no medical evidence to support his claims. Unfortunately, there is insufficient evidence to attribute his misconduct to a mental health condition, particularly given his claims that the urinalysis results were false. 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 mental health concerns that may be attributed to military service. There is insufficient evidence of PTSD. There is insufficient evidence that his misconduct may be attributed to a 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 medical diagnosis. 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. 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, 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, 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. 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 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. Thus, even taking into consideration your youth and immaturity, the mental health condition that impacted you during your active duty service and post-service, and your continued denial of drug abuse, the Board found that your positive urinalysis, that substantiated your wrongful use of a controlled substance while on active duty, and your extended period of UA 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 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 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

