



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

██████████
Docket No. 7934-25
Ref: Signature Date

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Dear ██████████

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 20 April 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 following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

- You enlisted in the U.S. Marine Corps and commenced active duty on 19 January 1981. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 8 March 1984.
- On 18 October 1984, you were formally counseled regarding the use or possession of a controlled substance (marijuana) and elected not to submit a statement. You were warned that further misconduct may result in your administrative separation.
- On 6 June 1985, you submitted a request for separation in lieu of trial by court-martial. Your request was subsequently approved, and, on 27 June 1985, you were discharged with an

Other Than honorable (OTH) characterization of service based on your request. While your record does not specify the misconduct for which you submitted a request to be discharged in lieu of trial by court-martial, you were assigned an RE-4B reentry code indicating your misconduct was due to drug abuse.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

- Your discharge was inequitable because it was based on a single isolated incident following four years of service.
- The incident involved a mentally ill family member who came onto the installation while you were at work and instigated an altercation with your commanding officer.
- Due to your young age and past trauma, you were not adequately equipped to manage the situation.

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

The Board initially concluded you were appropriately separated based on your request to be discharged in lieu of trial by court-martial. While the Board considered your contention regarding your family member and gunnery sergeant, the Board noted, in your discharge request, you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. Further, the Board found no evidence in your record to support your narrative of events that you contend led to your request to be discharged in lieu of trial by court-martial. Therefore, based on the presumption of regularity, the Board determined your discharge was, more likely than not, due to your second drug-related offense.¹ Therefore, the Board determined the presumption of regularity applies to your OTH discharge and no error exists with your record.

However, because you raised the issue of mental health, 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 insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the fact you provided no medical evidence in support of your claim. 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.

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

¹ Should you possess substantial evidence to the contrary, you may submit a request for reconsideration through a new DD Form 149 with the supporting evidence.

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, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, your claimed mental health issues, the evidence you provided in support of your application, your advanced age, 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 an opportunity 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. The Board also 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. 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 determined that you already received significant clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial, thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. While the Board commends you for your post-service accomplishments and acknowledged your rehabilitation efforts, 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 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,

5/19/2026
