



Docket No. 8212-25
Ref: Signature Date

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.

Although you did not file your application in a timely manner, the statute of limitation was waived in accordance with. A three-member panel of the Board, sitting in executive session, considered your application on 14 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 this 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional. 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:

- You enlisted in the Marine Corps and began a period of active duty on 31 May 1977. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 19 December 1980.
- On 3 October 1984, you received non-judicial punishment (NJP) for wrongful possession and use of marijuana.

- On 24 October 1984, you received your second NJP for two specifications of failure to go at the time prescribed to your appointed place of duty.

- On 13 March 1985, you were found guilty by a special court-martial (SPCM) of failure to go at the time prescribed to your appointed place of duty and two specifications of wrongful use of marijuana. As punishment, you were sentenced to confinement, reduction in rank, and a Bad Conduct Discharge (BCD). The BCD was subsequently suspended for a period of one year.

- On 20 May 1985, the commanding officer (CO) recommended your administrative separation from the Marine Corps. The CO noted that you were provided an opportunity to consult with a Judge Advocate (military counsel) and commented that:

[Petitioner] has displayed a complete disregard for the rules and regulations that govern the Marine Corps concerning drug abuse. Based on his non-judicial punishments and the special court-martial for the wrongful use of marijuana, it would be in the best interest of the Marine Corps to discharge [Petitioner] as soon as possible

- On 7 June 1985, an administrative discharge board (ADB) was convened. The ADB found that the preponderance of the evidence supported a finding that you committed misconduct for the basis of misconduct due to drug abuse and recommended your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. Ultimately, the separation authority approved the recommendation of the ADB and you were so discharged on 28 June 1985.

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

- You were traumatized when you arrived home from ■■■■■ after being gone for twelve months to be presented with a new baby, fathered by another man, by your wife.

- Your wife sent false stories to your commander causing you to be busted.

- You were self-medicating and failed multiple drug tests.

- The pregnancy and birth of another man's child into your household was more than you could bear at the time.

- You are remorseful and meant no harm to your country.

- You were a good Marine destroyed by your improper response to a huge burden.

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. The Board noted you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. 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 also requested an AO. As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 11 February 2026. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Temporally remote to his military service, the VA has granted service connection for another mental health condition. There is insufficient evidence of a diagnosis of PTSD, particularly given the information regarding the purported trauma that would not meet criteria for a diagnosis of PTSD. Unfortunately, there is insufficient information regarding his mental health concerns to attribute his misconduct to a mental health condition. 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, "Based on a review of all available evidence, it is my considered clinical opinion that there is post-service evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence of a diagnosis of PTSD. There is insufficient evidence that his misconduct may be attributed to PTSD or another 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 temporally remove 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. 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 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, 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 evidence you provided in support of your application, your advanced age, the advocacy letters 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 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 misconduct 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. 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. 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. 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,

4/27/2026

