



Docket No. 8220-25
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 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 13 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 provided an opportunity to respond to the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 commenced active duty on 17 July 1996.
- On 23 September 1997, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct, specifically repeated counseling for failure to pay debts and maintain personal finances. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.
- On 19 October 1998, you commenced a period of unauthorized absence (UA) that ended in your apprehension by civilian authorities on 11 December 1998. During this period of UA, you missed movement of your unit.
- On 19 January 1999, you pleaded guilty at Special Court Martial (SPCM) to your 53-day UA and missing movement. You were sentenced to forfeitures, confinement, and a Bad Conduct Discharge (BCD). You commenced appellate leave on 5 February 1999. Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 21 January 2000.
- Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. In your NDRB application, you stated "I went AWOL for no reason other than I was 21 years old, and was unaware of the consequences this would have on the rest of my life.....Stupid is my only excuse. I got tired of the decisions being made by my CO and rather than fight about it, which would have done no good, I took flight." You raised no mental health issues in your NDRB application. The NDRB denied your request for an upgrade, on 1 June 2005, based on their determination that your discharge was proper as issued.

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

- You suffered from PTSD after being in a vehicle fire while on active duty.
- You believe you are entitled to Department of Veterans Affairs (VA) benefits.
- Everyone was out to get you and you had no recourse but to go UA. You were a good Marine while in service.

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

The Board initially concluded you were appropriately assigned 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 BCD 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 process, a qualified mental health professional reviewed your

contentions and the available records and issued an AO dated 6 January 2026. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to his misconduct.

Petitioner submitted Statement in support of his experience, including exposure to a traumatic precipitant during training in which “the vehicle we were traveling in caught fire...[The Petitioner] endured the longest exposure to the smoke and heat during that incident.”

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. While there is evidence that the Petitioner received medical treatment in service following exposure to the purported traumatic precipitant, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct.

The AO concluded, “Based on a review of all available evidence, it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD.”

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 AO and 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. 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, your need for veterans’ benefits, the non-

violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your claimed mental health issues, the harshness of your punishment, the evidence you provided in support of your application, the character reference 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 considered the likely negative impact your conduct had on the good order and discipline of your command. Unexpectedly absenting yourself from your command placed an undue burden on your chain of command and fellow service members, and likely negatively impacted mission accomplishment. 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, 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. Even though the Board considered your possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from that factor. While the Board acknowledged your contentions that you were faced with a difficult choice in going UA, 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

