



[REDACTED]

[REDACTED]

[REDACTED]

1. You enlisted in the Marine Corps and began active duty on 18 June 2002. During 2003, you deployed in support of combat operations in Iraq and were awarded the combat action ribbon.

2. On 6 December 2003, you were arrested by civilian authorities in connection with a shooting and murder that took place on 19 November 2003. You were subsequently incarcerated pending your trial.

3. Consequently, you were notified of pending administrative separation proceedings by reason of misconduct due to commission of a serious offense. You were informed that the least favorable characterization of service you may receive was under Other Than Honorable (OTH) conditions. You elected to consult with counsel and to present your case to an administrative discharge board (ADB).

4. On 9 April 2004, the ADB found that you committed misconduct and recommended that you be separated from the Marine Corps with an OTH character of service. The Commanding Officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Marine Corps. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] had personal knowledge of this crime and failed to act on that knowledge in the interests of justice. This indicates a serious flaw in character that one does not associate with a U.S. Marine. Such a personality that is so clearly unconcerned with the welfare of others, particularly other service members, directly contributes to a degradation in unit discipline and morale. Such an attitude cannot be tolerated by those who must be able to trust one another unconditionally both on and off the battlefield.

5. The separation authority approved the ADB recommendation and you were so discharged on 26 April 2004.

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

1. You desire to upgrade your character of service in order to get needed medical attention for your PTSD and mental health symptoms.

2. You were exposed to mental trauma by witnessing live enemy fire, and combat, and these traumatic events have affected you mentally over the years with depression, anxiety, insomnia, alcohol abuse, and social behavior changes.

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 arrest for murder and the findings of the ADB. While the Board acknowledged that you may have been acquitted of the civilian charges, the Board determined the civil criminal proceedings apply different and more stringent standards of proof than the ADB. Further, the Board noted substantial evidence exists that you were aware of the shooting, initially denied any involvement, and presented misinformation when questioned. 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 review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO on 11 February 2026. The Ph.D. stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with or suffered from any PTSD symptoms while in service. He did not submit any medical evidence in support of his claim. December 5, 2003, NCIS report indicates that Petitioner initially denied any involvement with the shooting and presented misinformation about his whereabouts and participation thereof. This suggests a lack of candor as exhibited by the Petitioner. He was ultimately acquitted by a civilian court; however, his friend testified that he [Petitioner] saw the gun in the backseat, and as the driver, fled the scene following the shooting. None of these events can be said to have been caused by PTSD symptoms. Additional records (e.g., active-duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion

The Ph.D. concluded, "It is my clinical opinion that there is insufficient evidence of PTSD that existed in service. There is insufficient evidence that his misconduct could be said to have been caused by PTSD or any other mental health condition."

In response to the AO, you provided an additional statement in support of your case. 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 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 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 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, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your claimed mental health issues, the evidence you provided in support of your application, 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. By your own admission, you had knowledge of the crimes and purposefully failed to report it to the authorities and initially denied any knowledge. The Board completely agreed with the comments provided by your CO that your behavior was entirely inconsistent with the expectations required of you as a Marine. 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. Furthermore, 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. While 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. 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 commends you for your post-service rehabilitation efforts and 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,

4/14/2026

