



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

██████████
Docket No. 8291-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 16 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 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). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider. Although you were provided with an opportunity to respond to the AO, 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 Navy and began a period of active duty on 10 December 2002.
2. On 2 May 2003, you received nonjudicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ) Article 112a (wrongful use of marijuana). You were awarded

punishment of forfeiture of \$575 pay per month for two months (one month suspended for six months), restriction for 45 days, and extra duty for 45 days.

3. Consequently, you were notified that administrative separation proceedings had been initiated against you on the basis of Misconduct-Drug Abuse. You acknowledged your rights and waived your right to appear before an administrative separation board.

4. On 9 May 2003, [REDACTED] approved your discharge with an Other Than Honorable (OTH) characterization of service due to the misconduct of drug abuse.

5. On 28 May 2003, you were so discharged and assigned a reentry code of RE-4.

In your application to the Board, you request an upgrade to your characterization of service and contend that:

1. You were discharged for “minor level THC” use and the evidence against you should not have merited the discharge.

2. You were suffering from nightmares and flashbacks and eventually became incarcerated due to Post Traumatic Stress Disorder (PTSD).

3. You are in search of work and trying to piece your life back together.

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 wrongful use of a controlled substance. The Board noted you did not deny 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 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, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 8 January 2026. The AO was furnished to the Board and stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with or suffered from PTSD or any mental health condition/symptoms while in service. He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between PTSD (or any other mental health condition) and his in-service misconduct. 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 AO concluded, “Based on the available evidence, it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD or any mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to PTSD or any other mental health condition.”

The Board applied liberal consideration to your claim to having had PTSD at the time of your military service, and to the effect that this condition/experience 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 to conclude that you had a diagnosis of PTSD or any other mental health condition that existed in 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.

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, your need for veterans’ benefits, 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 rehabilitation efforts, your claimed 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. 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. The Board also concluded that it would be unjust to characterize your service as either General (under honorable conditions) or Honorable when you did not execute the performance of your service in the same manner as 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 your attempts to rehabilitate your life, 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 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,

4/2/2026

