



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

██████████
Docket No. 8316-25
Ref: Signature Date

██████████
██████████
██████████

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 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 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 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 Board also considered the advisory opinion (AO) furnished by a qualified mental health professional on 8 January 2026. 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:

1. You enlisted in the Navy with a waiver and began a period of active duty on 25 October 2000. As part of your enlistment processing, you admitted preservice use of marijuana.
2. Between 24 April 2002 and 30 September 2002, you received nonjudicial punishment (NJP) on four occasions for three instances drunken and reckless driving, three instances of

failure to obey an order, and insubordinate conduct. Consequently, you were counseled concerning your failure to obey orders and advised that failure to take corrective action could result in administrative separation.

3. On 10 October 2002, your command was informed that you tested positive to use of a controlled substance-marijuana.

4. On 15 October 2002, you received a fifth NJP for wrongful use of a controlled substance, failure to obey a lawful order, a period of unauthorized absence, and false and unauthorized pass offense.

5. On 31 October 2002, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense and drug abuse. After you elected to consult with qualified counsel and waived your right to an administrative board hearing, your commanding officer recommended you be discharged with an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation and ordered your discharge by reason of misconduct due to drug abuse. On 19 December 2002, you were so discharged.

6. Post discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 25 October 2006, after determining 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:

1. You were advised that your discharge would automatically upgrade to honorable in six months following your separation for service.

2. You were young, naïve, and “usurped” your privileges while serving as an assistance to the executive officer and the commanding officer.

3. Believing that your discharge would be upgraded, you accepted it with the intent to relieve the stress you were experiencing at that time.

4. You were not aware of the unfavorable long term consequences of your current discharge characterization.

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. While the Board carefully considered your contention of mitigation, 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, the Board considered the AO. The AO stated in pertinent part:

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, although there is behavioral evidence of a possible alcohol use disorder. 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. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service casual marijuana use that appears to have continued in service. 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 insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. 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 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 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 desire for an upgrade to your characterization of service, your contentions, the totality of your service, 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 claimed mental health issues, 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 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. 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. The Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. While the Board considered the length of time since your misconduct, they determined the severity of your misconduct outweighed any mitigation resulting from it. 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. The Board considered your age and possible need for benefits to address your health concerns but also determined the severity of your misconduct outweighed any mitigation resulting from those factors.

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 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,

3/26/2026

