



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


Docket No. 8631-25
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 30 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 and your response to that AO.

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:

1. You enlisted in the Marine Corps and began a period of active duty on 6 December 2004.

2. On 12 August 2005, you were counseled with regard to irresponsibility with a knife. Specifically, that while under the influence of alcohol, you cut your arm.

3. On 12 October 2005, you received nonjudicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ) Article 91 (disrespectful language toward ██████████, a Noncommissioned Officer) and Article 92 (did fail to obey a lawful order issued by ██████████ by drinking under the legal age). You were awarded punishment of forfeiture of \$346 pay per month for one month, 45 days of restriction, and 45 days of extra duty.

4. You participated in Combat Operations in support of ██████████ from 16 February 2006 through 27 February 2006, and in Combat Operations in support of ██████████ 5-7 from 28 February 2006 through 16 September 2006.

5. On 17 November 2006, you received a second NJP for violation of UCMJ Article 86 (unauthorized absence (UA) from 14 October 2006 through 14 November 2006). You were awarded punishment of forfeiture of \$713 pay per month for two months (suspended for six months), 45 days of restriction, and 45 days of extra duty.

6. On 19 November 2006, you began another period of UA which terminated when you were returned to military control by apprehension on 5 June 2007. During this period, the suspension of your previously suspended NJP punishment was vacated.

7. On 24 July 2007, you were found guilty at special court martial proceedings of violating UCMJ Article 86 (UA from 19 November 2006 through 22 May 2007) and Article 134 (did wrongfully and falsely alter your military identification card by replacing your last name "██████████" with the false name "██████████"). The Court sentenced you to confinement for a period of 75 days, reduction to the pay grade of E-1, and a Bad Conduct Discharge (BCD).

8. You were so discharged from the Marine Corps on 26 February 2008 and assigned a reentry code of RE-4.

In your application for correction, you request an upgrade of your characterization of service from BCD to Honorable and contend:

1. The Veterans Board of Appeals has already upgraded your service to Honorable for Veterans Affairs (VA) purposes.

2. On 1 August 2018, the VA determined that your service from 6 December 2004 through 26 February 2008 has been deemed Honorable for VA purposes.

3. You were suffering from Post Traumatic Stress Disorder (PTSD) at the time of your UA.

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

The Board initially concluded you were appropriately discharged with a BCD based on your SPCM conviction and sentence. The Board noted you pleaded guilty to the misconduct that led

to a guilty finding and sentence at your SPCM. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your punitive discharge and the Board found no error 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 licensed clinical psychologist reviewed your contentions and the available records and issued an AO on 21 January 2026. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with or suffered from PTSD or any mental health condition or symptoms while in service. Administrative records note that he was diagnosed with PTSD while in the brig. There are no medical records contained within his available service file to review. He submitted VA paperwork that notes service-connected disability; however, the evidence submitted does not specify diagnoses given. One of his NJP's occurred prior to his combat deployment and thus cannot be said to have been caused by PTSD. It is possible that some of his misconduct could have been mitigated by PTSD symptoms following his combat deployment, however additional evidence is needed pursuant to rendering an alternate opinion. 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 that "Based on the available evidence, it is my clinical opinion that there is possible evidence of a diagnosis of PTSD that existed in service, however no active-duty medical records were submitted. There is insufficient evidence to attribute his misconduct to PTSD or any other mental health condition."

In response to the AO, you provide additional clarification in support of your claim, stating in part that you were diagnosed with PTSD while in the brig following your return from deployment. You contend that the lack of additional active-duty medical records is the result of lost or incomplete paperwork from that period. You reiterate that the VA has already recognized the service connection and also assert that the August 2005 counseling and the October 2005 NJP were isolated, alcohol-related events common among young service members. You also state that you are prepared to provide additional post-service mental health records or a personal statement detailing how your symptoms manifested during deployment.

The licensed clinical psychologist reviewed your rebuttal evidence, noted that no new medical evidence was submitted and that you may need to request medical records from the brig where you contend you were diagnosed with PTSD. The licensed clinical psychologist concluded that the original AO remained the same.

The Board applied liberal consideration to your claim to have developed PTSD 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 noted that while the VA's determination provides possible evidence of a diagnosis of PTSD that existed in service, you did not provide active-duty medical records to support your statement that you were diagnosed with PTSD while serving in the Marine Corps. Nonetheless, the Board

determined that based on your personal statement, your combat operations support during OIF, and your VA determination, there is sufficient evidence to conclude that you may have developed PTSD during your naval service. This conclusion is supported by the information in your service record and by the information you submitted to the Board. However, even applying liberal consideration, the Board found insufficient evidence to conclude all the misconduct for which you were discharged was excused or mitigated by your PTSD condition and/or other 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 all your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the length of your UAs 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 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, your 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 absenting yourself from your appointed place of duty and falsely altering official military identification cards is contrary to military core values and policy. 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 BCD. 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, based on your record of misconduct, both before and after your deployment to Iraq, the Board believed that it would be unjust to characterize your less than fully 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 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,

4/3/2026

