



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

██████████
Docket No. 8696-25
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 10 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). In addition, the Board considered an advisory opinion (AO) from a qualified mental health professional. Although you were provided 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 U.S. Marine Corps and began a period of active duty on 26 June 1989.
2. From August 1990 to March 1991, you participated in Operations Desert Shield and Desert Storm.

3. On 4 February 1992, you received non-judicial punishment (NJP) for violation of Article 91 of the UCMJ. You elected to submit a statement after NJP.

4. On 18 February 1992, you were issued a counseling warning from going from your appointed place of duty. You were advised failure to take corrective action may result in administrative separation or limitation on further service.

5. On 1 October 1993, you were found guilty at special court-martial (SPCM) for unlawfully striking another Marine in the face and head, three specifications of communicating a threat to kill another Marine, and wrongfully soliciting another Marine to communicate a threat to another Marine. You were sentence to reduction in rank, forfeiture of pay and confinement.

6. On 22 February 1994, you were issued a counseling warning for your pattern of misconduct and frequent involvement.

7. On 20 May 1994, you received your second NJP for damage to government property and unlawful entry into a female Marine's quarters.

8. Consequently, you were notified of administrative separation processing for misconduct pattern of misconduct. After you waived your rights, the Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service. The SA accepted the recommendation and you were so discharged on 29 September 1994.

9. Prior to your discharge, on 13 September 1994, you received your third NJP for wrongfully appropriating an ██████████ calling card account valued at \$675.38.

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

1. You were diagnosed with PTSD through the private sector and the VA.
2. You were deployed in support of ██████████ for 18 months and when you came back you started a family and shortly thereafter you began to exhibit irrational and self-destructive behavior.
3. These actions resulted in your NJP and ultimately your SPCM.
4. While serving in ██████████, you got into a fight with a service member from another branch. Although the MP's noted that it was self-defense and you were processed and administratively discharged which ended your career.

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. The Board noted you did not deny committing the misconduct that formed the basis of your administrative separation and GEN 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 review process, a licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records, and issued an AO on 9 January 2026. The Ph.D. stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Temporally remote to his military service, a civilian mental health provider has diagnosed the Petitioner with PTSD and another mental health concern that are considered to have onset during military service. It is possible that insubordination and disobedience could be considered behavioral indicators of irritability associated with undiagnosed symptoms of PTSD. It is more difficult to attribute theft and unlawful entry to a symptom of PTSD or another mental health concern. 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 Ph.D. concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is post-service evidence from a civilian mental health provider of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence that all of 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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the temporally remote diagnosis you provided. 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 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 some your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of that serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

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, 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 mental health issues, the evidence you provided in support of your application, 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. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your GEN 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. Further, the Board noted that you already received a large measure of clemency when you were assigned a GEN discharge despite possessing an extensive record of misconduct that normally warrants an Other Than Honorable characterization of service. Therefore, the Board did not find an upgrade of your discharge to Honorable to be warranted in the interests of justice. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of your misconduct led them to conclude that your service was not Honorable.

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,

3/27/2026

