



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

██████████
Docket No. 8928-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 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 29 January 2026. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 13 November 2001. Prior to your enlistment, you admitted preservice drug use and received a waiver.
2. On 17 May 2003, you received nonjudicial punishment (NJP) for disobeying a lawful order, wrongful use of a controlled substance-hashish during time of war and leaving your post before being properly relieved.
3. On 25 August 2003, you were evaluated by a medical officer as a result of substance abuse. Consequently, you were referred to intensive outpatient treatment, weekly counseling visits, and cleared for administrative separation.
4. On 17 November 2003, you were evaluated by a medical officer and diagnosed with borderline personality disorder. Based on the determination you were a potential danger to yourself and others, you were recommended for expeditious administrative separation processing.
5. On 29 November 2003, you received NJP for physically controlling a vehicle while impaired by alcohol and violating an order by consuming alcohol while underage.
6. You were initially recommended for administrative separation processing based solely on your diagnosed personality disorder. However, on 5 March 2004, you were re-notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse and convenience of the government due to borderline personality disorder. Subsequently, you decided to waive your procedural rights.
7. Your CO recommended to the separation authority that you be discharged with an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation on the basis of drug abuse and you were so discharged on 16 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 were initially diagnosed with Borderline Personality Disorder. However, this diagnosis was later determined to be erroneous.
2. You were later diagnosed with combat related PTSD stemming from your service in Iraq.
3. The symptoms and behavioral health issues you exhibited at that time were consistent with PTSD and should have been taken into consideration during your administrative separation proceedings.
4. You have been receiving continuous treatment for combat related PTSD.
5. Your condition has been an ongoing daily struggle and you are seeking an upgrade to assist with your care.

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 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:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated by his Division psychiatrist. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service, and indicates lifelong characterological traits unsuitable for military service, since they are not typically, amenable to treatment within the operational requirements of Naval Service. 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 primary mental health condition or PTSD 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 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. 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, 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. In addition, 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. 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. 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. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be 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 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,

3/31/2026

