



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

■
Docket No. 9234-25
Ref: Signature Date

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Dear ■■■■■■

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 5 May 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 (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. Although you were afforded an opportunity to submit an AO rebuttal, you chose not to do so.

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:

- You enlisted in the Marine Corps and began a period of active duty on 12 April 1965.

- On 6 August 1965, you received non-judicial punishment (NJP) for unauthorized absence (UA) a period totaling five hours.

- You participated in operations in █ and █ from June 1966 to November 1966. During your time in █, you were subject to NJP on two occasions for twice failing to obey a lawful order.

- On 15 November 1966, you received your fourth NJP for absent from your appointed place of duty and failure to obey a lawful order.

- On 24 August 1967, you received your fifth NJP for a period of UA totaling one day and failure to obey lawful order.

- On 20 November 1967, you received an administrative remarks (Page 11) counseling concerning your frequent involvement of a discreditable nature with military authorities and establishing a pattern of shirking.

- On 15 January 1968, you received your sixth NJP for a period of UA totaling one day and incapacitated for the proper performance of duty.

- On 24 January 1968, you were found guilty by a summary court-martial (SCM) of disrespect towards a superior officer.

- On 4 April 1968, you received your seventh NJP for four specifications of insubordinate conduct toward a superior noncommissioned (NCO).

- On 17 May 1968, you were found guilty by a special court-martial (SPCM) of disrespect towards a superior officer, assault upon superior NCO who was in the execution of his office by kicking him on the leg with your foot, disrespect in language towards superior NCO, and assault. As punishment, you were sentenced to confinement, forfeiture of pay, and a Bad Conduct Discharge (BCD).

- While confined, you underwent a psychiatric evaluation and were diagnosed with a passive-aggressive personality disorder. Ultimately, upon the completion of appellate review in your case, you were discharged from the Marine Corps with a BCD on 12 June 1969.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that a correction to your record should be made to accurately reflect the reason for your discharge was due to medical conditions that you suffered prior to your discharge from the Marine Corps.

The Board initially concluded you were appropriately discharged with a BCD based on your SPCM conviction and sentence. The Board noted you did not deny committing the misconduct that formed the basis for your SPCM conviction. The Board also considered your contention that you were erroneously discharged for misconduct instead of disability. However, the Board found no evidence that you were diagnosed with a disability condition warranting processing through the disability evaluation system or that it occurred prior to you committing the

misconduct that resulted in your SPCM conviction. Therefore, the Board determined the presumption of regularity applies to your BCD and no error exists with your record.

However, because you raised the issue of mental health, post-traumatic stress disorder (PTSD), and traumatic brain injury (TBI), the Board requested an AO. As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 9 February 2026. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service. He has provided some medical evidence of mental health concerns that are temporally remote to his military service and appear unrelated. His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service, particularly given misconduct prior to his ■ deployment that continued during and afterwards. There is no medical evidence of TBI. 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 TBI, PTSD, or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to TBI, PTSD, or another mental health condition, other than personality disorder."

The Board applied liberal consideration to your claim that you suffered from a mental health condition, PTSD, and TBI, and to the effect that these conditions 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 your medical evidence is temporally remote to your service. 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, PTSD, and/or TBI. 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 claim that you suffered from a mental health condition, PTSD, and TBI, and to the effect that these conditions may have had upon the conduct

for which you were discharged in accordance with the Hagel and Kurta Memos, 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, 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 repetitive 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 unit. 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, the Board believed that it would be unjust to characterize your less than 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. In their opinion, it would create an unwarranted and inaccurate assessment of your period of service that could potentially undermine the integrity of the Marine Corps personnel system. 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. Based on the same rationale, the Board also concluded it was not in the interests of justice to change your reason for separation.

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,

5/22/2026

