



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

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Docket No. 9256-25
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 14 April 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). 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.

You previously applied to this Board for an upgrade to your characterization of service. You were denied relief on 11 December 2020. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

In your current application to this Board, you express a desire for your discharge character of service be upgraded, your reason for separation be changed to Secretarial Authority, your rank be restored to E-3, and your reentry code be changed to RE-1. You contend that:

- The Marine Corps made an error of discretion when it separated you due to one positive drug test despite no prior history of drug abuse.
- A positive test alone does not constitute a violation of Article 112a, UCMJ. An intentional use of drugs for non-medical purposes constitutes wrongful use. The only evidence in your record of a positive urinalysis is in the Notification of Separation Proceedings. There is neither evidence of wrongful drug use by you nor is there an attempt by the Marine Corps to determine whether you wrongfully used cocaine.
- You took weekly urinalysis and passed each test. Your urinalysis test conducted by your squadron tested positive and this was potentially due to tampering by your commander.
- You have no history of drug abuse or prior indiscretions and your punishment for the positive urinalysis far outweighed the punishment you deserved.
- At no point did you test positive for any illegal substance, nor was there any evidence to support drug use as related to a positive urinalysis.
- You suffered from PTSD during your time in service and your condition has continued to negatively impact your life since your discharge.
- You also suffer from unfair and unjust treatment of the Marine Corps. Since your discharge, you have continued to struggle with depression, anxiety, social withdrawal, and chronic sleep issues.
- Your reputation continues to be stigmatized because of your discharge.

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 positive urinalysis and non-judicial punishment for drug abuse. The Board considered your denial of drug abuse but noted that a positive urinalysis, by itself, without evidence to the contrary, can serve as evidence of drug abuse under Article 112a of the UCMJ. The Board noted that you had the burden to produce sufficient evidence contrary to your positive urinalysis. In reviewing the entirety of the record, the Board determined you failed to produce sufficient evidence to rebut the inference of wrongfulness raised by your positive urinalysis. Therefore, the Board determined the presumption of regularity applies to your OTH discharge 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, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 5 February 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/symptoms while in service. He did not submit any

medical evidence in support of his claim. His personal statement is not sufficiently detailed to provide a nexus between PTSD and his misconduct. He contends that he never used cocaine; however, a substance abuse screening performed the month prior to his positive urinalysis noted “drug abuser.” Unfortunately, there are no further details contained in his record about that screening or what drugs he evidently admitted to using. 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 PTSD or any other mental health condition 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 and questioned how your mental health condition could excuse or mitigate misconduct that you deny committing.

In addition to applying 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, 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, reinstatement to E-3, and other associated changes to your record, 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, 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, your need for veterans’ benefits, 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. The Board found that your conduct showed a complete disregard for military authority and regulations. 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. In

making this finding, the Board took into consideration that you have never taken responsibility or expressed remorse for your actions that led to your administrative separation and OTH discharge. Instead, you have continuously attempted to shift responsibility to others without any substantiating evidence, including accusing your commander of tampering with your urinalysis. Based on your refusal to accept responsibility for your drug abuse, the Board found that your commander's decision to administratively process and separate you for a single incident of drug abuse to be supported by the evidence, a reasonable exercise of his discretion, and consistent with Marine Corps policy regarding drug abuse.

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. While the Board again carefully considered your contentions and the evidence you submitted in support of your application, 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 determined your assigned paygrade, reason for separation, and assigned reentry code remain appropriate.

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,

4/28/2026

