



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

██████████
Docket No. 9962-25
Ref: Signature Date

██████████
██████████
██████████

Dear ██████████

██████████ 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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with. A three-member panel of the Board, sitting in executive session, considered your application on 12 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 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 and your response to the 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:

- You enlisted in the U.S. Marine Corps and began a period of active duty on 19 June 2006. As part of your enlistment processing, you admitted to illegal use of a controlled substance.
- On 1 November 2007, you received non-judicial punishment (NJP) while at ██████████, ██████████, for physical altercation with a lance corporal. You were subsequently issued a counseling warning and advised that failure to take corrective action may result in judicial proceedings and or administrative separation.
- On 19 November 2007, you were issued a second counseling warning due to your actions leading to an incident of substantiated child neglect as confirmed by the Case Review Committee. You were advised that failure to take corrective action may result in judicial or adverse administrative action, including but not limited to administrative separation.
- On 18 February 2008, you were issued a third counseling for your lack of judgment and dereliction of duty by failing to report violations of misconduct. You were advised failure to take corrective action and any violations of the UCMJ may result in judicial or adverse administrative action, including but not limited to administrative separation.
- On 15 July 2008, your command was notified that you tested positive for marijuana on a urinalysis. Consequently, you were notified of administrative separation processing for misconduct drug abuse. After consulting with military counsel, you waived your right to an administrative board.
- On 11 September 2008, you received your second NJP for wrongful use of marijuana.
- On 24 September 2008, you were screened by SAAC and found to be alcohol dependent and was recommended for Level II.5, partial hospitalization.
- After your Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization, the SA accepted the CO's recommendation and you were so discharged on 17 February 2009.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that your misconduct was the result of your post-traumatic stress disorder symptoms, you did not receive any command support, and your drug abuse was an attempt to self-medicate. You also provided evidence in support of your contention that you have rehabilitated yourself since your discharge from the Marine Corps.

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 admitted to 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 OTH discharge and no error exists with your record.

However, because you raised the issue of mental health, the Board 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 25 February 2026. The Ph.D. stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His adjustment and alcohol use disorder diagnoses were 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. An adjustment disorder typically resolves once the stressor, such as military service, is removed. Temporally remote to his military service, a civilian mental health provider has noted diagnoses of PTSD and Alcohol Use Disorder. It is possible that mental health concerns considered transitory in service have been re-conceptualized as PTSD symptoms with the passage of time and increased understanding. However, there is insufficient information regarding the purported traumatic precipitant to make this determination. Unfortunately, it is difficult to consider that his misconduct is related to symptoms of undiagnosed PTSD, given pre-service substance use that appears to have continued in service. 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 in-service evidence of a mental health condition that may be attributed to military service. There is post-service evidence from a civilian provider of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition, other than alcohol use disorder or a possible substance use disorder."

In response to the AO, you provided additional letter in support of your application along with a letter from your civilian mental health provider. After reviewing your rebuttal letter, the AO remained unchanged since your new evidence was not materially different from what you previously submitted.

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 there is in-service evidence of a mental health condition that may be attribute to military service. This conclusion is supported by the AO and your post-service medical evidence. However, 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 agreed with the AO's conclusion that your conduct appears to be a continuation of your pre-service drug abuse.

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, 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 remorse, your service to your community, the advocacy letters you provided for review, 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 considered 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 also found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given many 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. In making this finding, the Board was not persuaded by your argument that you were not offered mental health treatment. The Board noted you received in-service mental health treatment based on your service medical record. Therefore, the Board questioned your candor and/or reliability of recall in this matter. While the Board commends you for your rehabilitation efforts and 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 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,

6/4/2026

