



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

██████████
Docket No. 3761-26
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 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, and applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).¹

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 4 February 2000.
- On 14 May 2001, you received non-judicial punishment (NJP) for underage drinking and the use of provoking speech toward another Marine. You were counseled for your misconduct and warned that further misconduct may result in administrative separation processing.
- On 30 July 2001, you received a second NJP for underage drinking.
- Although your record is incomplete and does not contain all documents pertinent to your discharge from the Marine Corps, the Board relies on a presumption of regularity to support the

¹ The Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not respond to the Board's request to provide evidence in support of your claims. In addition, your application did not discuss any mental health issues or include any evidence. Therefore, the Board did not consider your application under the guidance provided in the Kurta and Hagel memos.

official actions of public officers and, absent substantial evidence to the contrary, presumes that government officials properly discharged their official duties. Your record indicates you were placed in confinement from 19 October 2001 to 6 November 2001. Your Certificate of Release or Discharge from Active Duty (DD Form 214) indicates you were discharged from the Marine Corps, on 21 March 2003, with a Bad Conduct Discharge (BCD) pursuant to a court-martial conviction.

In your application to this Board, you request an upgrade to your characterization of service and contend that:

- After smoking marijuana one night and failing a drug test, you were not offered rehabilitation despite your prior good record.
- You served approximately three years in the Marine Corps and would like an upgrade in order to obtain health benefits.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately discharged with a BCD based upon your court-martial conviction and sentence. The Board noted you admitted to committing the misconduct that formed the basis for your SPCM conviction. Therefore, the Board determined the presumption of regularity applies to your BCD and no error exists with your record.

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 your contentions, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your desire 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. 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. Additionally, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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 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 its finding, the Board noted you were awarded a BCD based on the entirety of your misconduct record and not simply drug abuse. Thus, the Board was not persuaded by your argument that an injustice exists because you were not offered rehabilitation treatment. 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 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 is attached 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,

5/26/2026

