



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

■  
Docket No: 3119-21  
Ref: Signature Date



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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 25 October 2021. 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 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). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 5 August 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 24 September 1980. On 19 May 1981, you received nonjudicial punishment (NJP) for wrongful possession of marijuana. On 16 November 1982, you received NJP for being absent from your appointed place of duty. On 30 March 1983, you tested positive for marijuana use. On 11 April 1983, you received NJP for one day of unauthorized absence. On 12 April 1983, you received a counseling and retention warning regarding your frequent involvement with military authorities. On 22 April 1983, you received your fourth NJP for having knowledge of a theft, and wrongfully and willfully withholding such knowledge from military authorities. On 14 June 1983, you were identified for drug abuse by a random urinalysis for marijuana. At that time, you refused NJP, which resulted in administrative discharge action. On 28 June 1983, you were notified of administrative discharge action by reason of misconduct due to a pattern of misconduct and drug abuse. After being advised of your procedural rights, you elected to have your case heard before an

administrative discharge board (ADB). On 5 July 1983, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge by reason of a pattern of misconduct and drug abuse. On 14 July 1983, an ADB found that you had committed misconduct and recommended you receive an OTH discharge. A staff judge advocate reviewed your case, and found it to be sufficient in law and fact. On 15 August 1983, the separation authority directed that you be separated from the Marine Corps with an OTH discharge due to drug abuse. On 31 August 1983, you were discharged from the Marine Corps with an OTH characterization of service.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering a mental health condition during your service. The AO noted that based on the available evidence, the preponderance of objective evidence failed to establish you were diagnosed or suffered from a mental health condition or TBI as a result of your military service, or your in-service misconduct could be attributed to TBI or a mental health condition.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your assertions that: (a) when you were in the Marine Corps, you were treated unfairly, and too young to speak up for yourself, and your first office hours was for having marijuana seeds in the barracks that were not yours, but you admitted they were yours because you were too scared to say anything; (b) you were an exemplary Marine, had constant productivity, and conduct scores above average (4.7/4.8); (c) you had mental issues since 1980, when you had head trauma in Boot Camp; (d) you have been totally disabled since March 2017, for bi-polar and “psychofrantic” disorders stemming from your military service; and (e) you did not go to anyone for help or tell your story of verbal, physical, and metal abuse starting in [REDACTED] and throughout your military service. Further, you assert you were, hit in the head by a swamp monster for talking during survival training, and were, punched in the head and chest by a Sergeant at [REDACTED] in November 1980. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your four NJPs, one of which for possession of marijuana, and your use of marijuana, and the fact that you were warned of the consequences of further misconduct outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the available evidence, the preponderance of objective evidence failed to establish you were diagnosed or suffered from a mental health condition or TBI as a result of your military service, or your in-service misconduct could be attributed to TBI or a mental health condition.

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,

10/31/2021



Executive Director

Signed by:

