



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

█  
Docket No. 7071-23  
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 you did not file your application in a timely manner, the Board waived the statute of limitation in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 15 March 2024. 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 to 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). The Board also considered the advisory opinion (AO) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 2 August 2004. You served approximately one year without incident prior to your first nonjudicial punishment (NJP), on 7 November 2005, for multiple violations of the Uniform Code of Military Justice (UCMJ), to include Article 92, for consuming alcohol at various clubs in █, Article 109, for destroying a corporal's computer by throwing it on the ground and rendering it useless, Article

128, for striking a corporal in the face with an open hand, and Article 134, for entering into a verbal altercation with a corporal after taps and, thereby, disturbing the peace.

Within six months of your first NJP, you received a second NJP, on 18 April 2006, for UCMJ violations of Article 128 offense, for unlawfully striking a lance corporal on the face, as well as two alcohol-related offenses; the first, under Article 92, was for consuming alcohol while being under the legal drinking age and the second, under Article 134, was for drunk and disorderly conduct which culminated in your assault offense. Three months later, on 18 July 2006, you received your third NJP, again for alcohol related offenses. Specifically, you violated Article 92 by failing to return when required by liberty regulations and by again consuming alcohol under the legal drinking age, you also violated Article 134 again due to drunk and disorderly behavior during which you were belligerent with military police. Subsequently, you were notified of administrative separation proceedings by reason of misconduct due to a pattern of misconduct, and you elected to waive your right to a hearing before an administrative separation board.

Before the recommendation for your administrative separation was routed for processing, you were then subject to a fourth NJP for additional violations of the UCMJ, including Article 86, for an unauthorized absence from your place of duty, Article 92, for wrongfully consuming alcohol under the legal age, Article 112, for being drunk while on duty as a maintenance management specialist, Article 112a, for wrongful use of coricidin, which was identified at the time of your NJP as a “controlled substance,” and Article 134, for willfully breaking restriction by wearing civilian attire. The recommendation for your discharge under Other Than Honorable (OTH) conditions stated that you were “unwilling and incapable of adhering to the disciplined environment” your command had fostered. Legal review of this recommendation and of your four NJPs corrected the administrative record to clarify that coricidin was not, in fact, a controlled substance and that your misuse of the over-the-counter medication would have been more appropriately classified as an Article 92 orders violation. On 12 September 2006, Commanding General, ██████████, approved your separation, and you were discharged, on 27 September 2006, with an OTH.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge and your contentions that, during your military service, a psychologist recommended that you receive treatment for alcohol abuse but you were denied care by your commanding officer and, instead, punished. You believe that your command’s lack of support for treatment and a change of command unfairly contributed to your involuntary administrative discharge and cost you a possible career as a Marine. You further state that you have achieved sobriety since your discharge with the assistance of fellow veterans, and that you know a retired field grade officer who reviewed your service records and felt your case merited application to the Board. For purposes of clemency and equity consideration, the Board noted that you did not submit any evidence in support of your contended sobriety or character letters in support of your post-discharge behavior and accomplishments.

Because you also contend that a mental health condition affected the circumstances of your discharge, the Board also considered the AO. The AO stated in pertinent part:

