



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

██████████  
Docket No. 9446-23  
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 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 7 June 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, which was previously provided to you. 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 27 June 1988. On 14 September 1990, you were issued administrative counseling advising you to correct your deficiencies with respect to your resentment of authority, disobedience of lawful orders, disrespect to a Marine noncommissioned officer, immature actions, and belligerent attitude. On 1 November 1990, you were not recommended for promotion to E-4. You were counseled a second time, on 26 February 1991, for poor use of judgment and self-discipline which resulted in an alcohol-related altercation with another E-3.

On 30 August 1991, you were subject to nonjudicial punishment (NJP) for two violations of Article 86 of the Uniform Code of Military Justice (UCMJ) for unauthorized absences (UAs) of three and 3.5 hours. You were counseled the following week, on 6 September 1991, for an alcohol-related incident resulting in your conviction for a driving under the influence (DUI) offense, which resulted in a fine and six months suspension of your license after having been jailed, and for another offenses of disorderly conduct, on 17 August 1991, which resulted in your UA. As a result, you were also warned that your conduct was of a nature to bring discredit upon the Armed Forces and advised that failure to correct your frequent involvement with law enforcement could result in administrative separation. You were also counseled, on 19 November 1991, for financial irresponsibility after issuing a worthless check or checks to the exchange, and continued to not be recommended for promotion to E-4.

On 21 January 1992, you were subject to NJP for two specifications of violating Article 134 of the UCMJ for your dishonorable failure to pay a debt by issuing checks with insufficient funds, with another 14 day period of restriction and extra duty as punishment. You had another NJP, on 3 April 1992, for another period of UA in violation of Article 86 due to being in the hands of civil authorities again on 23 March 1982, with a resulting punishment of 14 days extra duty. You were subsequently counseled, on 13 April 1992, for the alcohol-related offense which had resulted in your arrest by civil authorities on 22 March 1992, in addition to driving on a suspended license and driving with an expired vehicle inspection.

Consequently, you were notified of administrative separation proceedings for misconduct due to minor disciplinary infractions. After consulting legal defense counsel, you elected to waive your right to a hearing before an administrative separation board and did not submit a statement regarding your proposed separation. The recommendation for your separation under Other Than Honorable (OTH) conditions for misconduct due to minor disciplinary infractions was approved by Commanding General, █ on 24 April 1992. You were so discharged on 5 May 1992.

You previously applied to the Naval Discharge Review Board (NDRB), contending that your discharge had not been automatically upgrade after six months. The NDRB considered your request on 15 November 2007 and found that your discharge was proper and equitable.

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 to “Under Honorable Conditions (General)” and your contentions that you suffered post-traumatic stress disorder (PTSD) during your military service after witnessing a Marine Corps officer killed by unexploded ordinance on a grenade range. For the purposes of clemency and equity consideration, you submitted a personal statement and a letter from your Veteran Services Officer (VSO), in addition to two letters regarding your post-discharge character and conduct.

Because you contend that PTSD contributed to the circumstances of your discharge, the Board also considered the AO. The AO stated in pertinent part:

Petitioner submitted an undated letter from a Veterans Services Officer (VSO) indicating that the Petitioner was suffering from mental health issues during his time in service. He submitted a character reference and letter indicating discharge

