



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

██████████  
Docket No. 3553-24  
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 4 October 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 28 June 1983. You were stationed in ██████████ from 2 April 1984 through 5 March 1985, during which time you got into a fight in the barracks and punched another Marine in the face on 9 September 1984. However,

you were not subject to disciplinary action, and you were awarded the Good Conduct Medal on 29 June 1986 after three years of service without disciplinary incident.

Subsequently, you transferred to Marine Corps Base, ██████████. On 15 September 1986, following a positive urinalysis drug screening, you accepted nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMH) under Article 112a for wrongful use of the controlled substance marijuana. On 9 January 1987, you had a second NJP for another violation of Article 112a, again for wrongful use of marijuana. Consequently, you were notified of separation processing by reason of misconduct due to drug abuse. You consulted legal counsel and requested a hearing before an administrative separation board (ADB). The ADB convened on 2 March 1987, found that the preponderance of evidence substantiated the basis for separation, and recommended your discharge under Other Than Honorable (OTH) conditions.

While action on the recommendation for your separation was pending, you absented yourself without authority on 17 March 1987 and remained absent until 7 April 1987. You received a third NJP for this violation of Article 86 on your final day of service, 13 April 1987, after which you were discharged 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 contention that you developed post-traumatic stress disorder (PTSD), as a result of a physical assault that caused traumatic brain injury (TBI), during your military service while stationed in ██████████. Although your application to the Board indicated that supporting documentation would be provided, and in spite of being sent notification of the need for supporting documentation, you did not submit any supplemental material for consideration. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

Because you contend that PTSD affected the circumstances of the misconduct which resulted in your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any symptoms of a mental health condition. His statement is not sufficiently detailed to provide a nexus with his misconduct, nor did he submit any medical evidence in support of his claim. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

