



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

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Docket No. 3967-24  
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 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.

You enlisted in the Navy and began a period of active duty on 16 November 1988 and were administratively counseled that same month that you were being placed on a urinalysis surveillance program due to having a positive urinalysis for marijuana use. On 12 May 1989, you received nonjudicial punishment for violations of the Uniform Code of Military Justice (UCMJ) under Articles 92, 128, and 134 for failure to obey a lawful order, simple assault, and communicating a threat. You were placed on bread and water for three days and notified of processing for an entry level separation by reason of entry level performance and conduct. On 15 May 1989, prior to completing over 180 days of active duty service, you acknowledged that, if the recommendation was approved, it would result in your "discharge from naval service with an uncharacterized discharge identified as Entry Level Separation." However, later within this

same acknowledgement, it conversely stated that you understood “that if separation is approved, the characterization of [your] service will be a characterization of service as ‘General.’” At that time, a counseling entry was also made to document that you were being separated for entry level performance and conduct, consistent with the separation code entered in your record of discharge on 15 May 1989. However, rather than identifying your “Entry Level Separation” as uncharacterized service, you were issued a characterized discharge of General (Under Honorable Conditions).

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 that the Board review your service record and discharge for unspecified errors in the various categories of pay and allowances, decorations and awards, disability, and administrative correction, as well as your contention that you were struggling with post-traumatic stress disorder (PTSD) or other mental health concerns during your service. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

Because you also contend that PTSD or another mental health condition affected the circumstances of 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, aside from a Personality Disorder. He did not submit any medical evidence in support of his claim. His statement is not sufficiently detailed to provide a nexus with his misconduct. 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.”

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. More significantly, the Board noted that service regulations establishing the separation authority at the time of your separation expressly limited the entry level performance and conduct narrative reason for separation to receipt of an uncharacterized discharge; therefore, you were erroneously issued a characterized discharge when your service should have remained uncharacterized due to not having exceeded 180 days of active duty service prior to the initiation of your discharge. Although this characterization was under honorable conditions rather than fully honorable, the Board noted the significant, violent misconduct which precipitated your expeditious administrative separation and your overall trait average of only 2.6. Additionally, to the extent that you received characterized service rather than an uncharacterized discharge, the Board found that this error inured to your benefit and, therefore, declined to revert your discharge under honorable conditions to uncharacterized service. Further, the Board concurred with the AO that there is insufficient evidence that your

