



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

██████████  
Docket No. 7581-24  
Ref: Signature Date

████████████████████  
██████████████████████████████  
████████████████████████████████████████  
██████████████████████████████

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 statute of limitation was waived 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 November 2024. The names and votes of the members of the panel 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 this 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 Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your record shows that you enlisted in the Marine Corps Reserve and served on active duty for your initial training from 7 July 1998 to 20 November 1998. Upon your release from active duty, you were assigned to your Reserve unit.

On 9 April 2000 and 6 October 2000, you were counseled for unsatisfactory drill participation. On 8 April 2001, you were administratively reduced to Private First Class due to unsatisfactory participation in the Selected Marine Corps Reserve. On 14 January 2002, you were mobilized on active duty. On 13 February 2002, you underwent non judicial punishment (NJP) for violating Article 112a, Uniform Code of Military Justice (UCMJ), wrongful use of marijuana. On

19 March 2002, you underwent a second NJP for violating Article 91 of the UCMJ for insubordinate conduct.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Marine Corps on 31 July 2002 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is "Drug Abuse," your separation code is "HKK1," and your reenlistment code is "4B."

Post-discharge, you petitioned the Naval Discharge Review Board (NDRB) requesting an upgrade to your characterization of service due to your post-service conduct that included graduating from [REDACTED]. On 10 August 2015, the NDRB found that your discharge was proper and equitable and a discharge upgrade was not warranted.

For this petition, you request a medical discharge stating that you were improperly denied a medical evaluation board (MEB) at the time of separation. You argued that due to harassment and discrimination while on active duty you became depressed and anxious and used marijuana as a way to self-medicate. You further contend this depression and anxiety developed into post-traumatic stress disorder (PTSD). For the purpose of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service, to include whether they qualified you for the military disability benefits you seek. Upon review, the Board disagreed with your rationale for relief. The Board noted you did not provide any documentation to support your claim of PTSD diagnosis or treatment despite a request from the Board. Consequently, the Board found there was insufficient evidence to determine you suffered from a qualifying disability condition or that you merited a MEB. Accordingly, based on the foregoing, the Board determined you provided insufficient evidence to overcome the aforementioned presumption of regularity. Moreover, the Board considered that you were ineligible for disability benefits based on your misconduct based discharge that resulted in an OTH. 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,

1/16/2025

