



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: 2648-21
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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 29 November 2021. 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 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). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 20 August 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 24 October 1988. On 27 October 1988 and 12 January 1989, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 26 October 1990, you reenlisted after serving over two years of honorable service. On 25 January 1993, you received nonjudicial punishment (NJP) for wrongful use of cocaine. On 22 March 1993, you were notified of administrative discharge action for misconduct due to drug abuse. After being afforded your procedural rights, you elected not to have your case heard before an administrative discharge board. On 29 June 1993, your case was forwarded to the separation authority recommending that you receive an other than honorable (OTH) discharge. On 14 July 1993, the separation authority directed that you receive an OTH discharge due to drug abuse. On 3 August 1993, you were, discharged from the Navy with an OTH characterization of service. On 8 March 1995, a Correction to DD Form 214, Certificate of

Release or Discharge from Active Duty was issued changing your active duty service dates and adding that you had "Continuous Honorable service from 24 October 1988 to 25 October 1990." A copy of which is enclosed.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering a mental health condition during your service. The AO noted that based on the available evidence, the preponderance of objective evidence failed to establish you suffered from a mental health condition at the time of your military service, or your in-service misconduct could be attributed to a mental health condition.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your contentions that: (a) you believe your discharge is inequitable because it was based on one isolated incident, and the first four years of your enlistment was without major incident; (b) after you were assigned to submarine duty, you began to experience mental issues due to claustrophobia, and started to self-medicate, which is the reason you received an OTH discharge; and (c) you are dealing with homelessness, getting your life together, and would like to be able to obtain a better job. Based upon this 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, and the fact that you were briefed on the Navy's policy regarding drug abuse on more than one occasion outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the available evidence, the preponderance of objective evidence failed to establish you suffered from a mental health condition at the time of your military service, or your in-service misconduct could be attributed to a mental health condition. 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,

12/14/2021

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Executive Director

Signed by: █

Enclosure