



**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: 2729-21  
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 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 25 October 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 22 August 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 18 March 1974. On 8 January 1976, you received nonjudicial punishment (NJP) for possession and use of marijuana. On 24 December 1976, you were identified as a drug abuser, and acknowledged that you did not qualify for an exemption due to commission of a drug abuse offense. On 30 January 1977, a medical narrative summary of your drug use noted that you appeared to be sincerely motivated and capable of completing your obligated service, and you were recommended for retention in the Navy. You were counseled regarding your deficiencies and warned that further misconduct could result in administrative discharge action. On 12 April 1977, a Naval Drug Rehabilitation Center reported to the Chief of Naval Personnel (CNP), that you had completed the rehabilitation program for your involvement with drug usage, and it was recommended that you be returned to full duty. On 17 May 1977, your security clearance eligibility was reviewed by CNP, and it was

determined that no further action with regard to administrative separation was contemplated. It was directed that you be warned, however, that further misconduct could result not only in disciplinary action, but also in processing for administrative discharge, and that an Administrative Remarks (Page 13) entry be made in your service record. On 7 July 1977, the following Page 13 Entry, was entered into your service record, “[s]ubject member was exposed to a controlled drug, LSD. Therefore, at the first sign of any flashbacks, he shall immediately be made available for a psychiatric evaluation with a view toward possible administrative separation.” On 2 November 1977, you received NJP for two brief periods of unauthorized absence, and disobeying a lawful order. On 27 January 1978, you received NJP for being absent from your appointed place of duty. On 14 February 1978, you were convicted by summary court-martial (SCM) for using disrespectful language, disobeying a lawful order, drinking alcoholic beverages while on restriction, and assault by threatening to hit your superior petty officer with your fist. On 17 March 1978, you were discharged from the Navy with a general characterization of service.

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 an unfitting mental health condition at the time of your military service, or your in-service misconduct could be attributed to an unfitting 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 assertions that you had “four years of service with mental health issues in the third year,” and your discharge “did not take in all points.” You did not describe any psychological symptoms or behavioral changes indicative of a mental health condition. There were no additional in-service or post-discharge clinical records in support of your petition provided for review. 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 three NJPs (one for possessing drugs), SCM, and the fact that you were warned of the consequences of further misconduct 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 an unfitting mental health condition at the time of your military service, or your in-service misconduct could be attributed to an unfitting 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,

10/31/2021

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Executive Director

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