



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: 3202-21

Ref: Signature Date

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Dear █:

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.

A three-member panel of the Board, sitting in executive session, considered your application on 18 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 Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta 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). Additionally, the Board considered the advisory opinion (AO) furnished by qualified mental health provider dated 26 August 2021, which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

You enlisted in the Navy and began a period of active duty on 28 December 1982. On 15 August 1984, you received nonjudicial punishment (NJP) for knowingly and wrongfully using a controlled substance. On 7 November 1984, you received a second NJP for knowingly and wrongfully using a controlled substance after testing positive during a urinalysis. On the same date, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to waive all your procedural rights. On 9 November 1984, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 16

November 1984, the discharge authority approved and ordered an OTH discharge by reason of misconduct due to drug abuse. On 23 November 1984, you were so discharged.

As part of the Board's review, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that PTSD might have mitigated the misconduct that led to your OTH discharge. The AO noted your in-service records did not contain evidence of a diagnosis of a mental health condition nor did you provide details supporting an experience of psychological symptoms indicating an in-service mental health condition. The mental health professional opined that based on the available evidence, the preponderance of objective evidence failed to establish you were diagnosed with a mental health condition, suffered from a mental health condition at the time of your military service, or your in-service misconduct could be mitigated by 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 contention that you began suffering from PTSD while serving in the Navy, and your contention that you began using drugs as a way to deal with PTSD related symptoms. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs, outweighed these mitigating factors. The Board noted you did not submit any documentation or advocacy letters to be considered to support your contentions. 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 the 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,

10/18/2021

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Executive Director

Signed by: █