



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: 4587-21
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 3 January 2022. 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 12 November 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 10 April 1986. On 15 April 1986, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 18 April and 11 August 1988, you received nonjudicial punishment (NJP) for a brief period of unauthorized absence and wrongful use of cocaine. Further, you were warned that further deficiencies could result in administrative discharge action. On 27 September 1988, you received NJP for wrongful use of cocaine. On 29 September 1988, you were notified of administrative discharge action for misconduct due to drug abuse. After you were advised of your procedural rights, you elected to waive your right to request an administrative discharge board, and to submit a written statement on your behalf. On 4 October 1988, your commanding officer directed that you undergo a Medical Evaluation to determine your drug/alcohol dependency. You were found not psychological or physiologically dependent or addicted to drugs. However, you were found not

amenable to counseling or rehabilitation and recommended for administrative separation. On 7 October 1988, your case was forwarded to the separation authority with recommendation that you receive an other than honorable (OTH) discharge. On 7 November 1988, your personal written statement, denying your wrongful use of cocaine was forwarded to the separation authority. On 5 December 1988, the separation authority directed your OTH discharge due to drug abuse. On 12 December 1988, you were separated from the Navy with an OTH 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 was suffering from Post-Traumatic Stress Disorder (PTSD) during your service. The AO noted that based on the current available evidence, there is insufficient evidence that you may have incurred PTSD or another unfitting mental health condition during military service, and there is insufficient evidence that your misconduct could be mitigated by 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: (a) your discharge was due to your use of drugs to escape the Navy because you were forced to stay and work in the main engine room where an accident happened, and you were denied several requests to change to another engineering division; (b) you believe you were a very good Fireman, served honorably before the incident, and were the only person that was not burned; (c) you incurred PTSD following an accident in the boiler room when your Shipmates were badly burned and you helped to evacuate them to safety; and (d) you began to use drugs seeking discharge from the military following the incident, as you were unable to get away from your job through transfer or other means. 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, two of which were for drug abuse, and the fact that you were warned of the consequence of further misconduct after first NJP for wrongful drug use outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the current available evidence, there is insufficient evidence that you may have incurred PTSD or another unfitting mental health condition during military service, and there is insufficient evidence that your misconduct could be mitigated by 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,

1/19/2022

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Executive Director

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