



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: 4630-21
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 13 December 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 14 October 2021, which was previously provided to you, and your rebuttal in response to the AO dated 27 October 2021.

You enlisted in the Navy and began a period of active duty on 17 September 1981. Prior to your active duty, you admitted to pre-service use of drugs but a Drug Waiver was not required. On 27 May 1982, you received nonjudicial punishment (NJP) for possession of marijuana and drug paraphernalia (rolling papers). On 15 November 1982, you were counseled regarding drug abuse and warned that further deficiencies could result in administrative discharge action. On 15 December 1982, you were counseled regarding drug abuse and warned that further deficiencies could result in administrative discharge action. On 10 January 1983, you were once again counseled regarding drug abuse and warned that further deficiencies could result in administrative discharge action. On 13 January 1983, you received NJP for wrongful use of marijuana. On 11 February 1983, you received NJP for possession of marijuana. On 19 February 1983, you received NJP for UA and disobeying a lawful order. On 28 March 1983,

a Substance Abuse Report stated you possessed extremely little, if any, potential for future productive service. You had received three NJPs, two of which were drug related, since your original NJP in May 1982, for possession. In addition, you had additional positive urinalyses in November and December 1982, and January 1983, and without questions, showed no interest in stopping your abuse of drugs. On 13 April 1984, you received NJP for possession of drug paraphernalia in your barracks room locker. On 16 April 1984, you were notified of administrative discharge action due to drug abuse. After being advised of your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. On 17 April 1984, your case was forwarded to the separation authority recommending you receive an other than honorable (OTH) discharge due to drug abuse. It was stated that you showed no inclination to cease your drug abuse or to seek rehabilitation. On 24 April 1984, the separation authority directed you be separated from the Navy with an OTH discharge due to drug abuse. On 25 April 1984, you received a sixth NJP for possession of drug paraphernalia, and breaking restriction. On 4 May 1984, you were discharged from the Navy with an OTH characterization of service due to drug abuse.

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 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 during military service, and there is insufficient evidence that your misconduct may be related to symptoms associated with PTSD.

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 statement that you were, not provided counsel or assistance with the problem you encountered in-service, if you were on active duty now, you would have been recommended for medical help, and you believe your command thought it was easier to get you out of the Navy rather than help you. 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 six NJPs, five of which involved drug related offenses and the fact that you were, counseled and warned of the consequences of further deficiencies in your performance and or conduct, on more than one occasion, outweighed these mitigating factors. The Board noted that you were offered assistance through your command Drug and Alcohol Program Advisor (DAPA), and chain of command on more than one occasion. Additionally, the Board concurred with the AO that based on the current available evidence, there is insufficient evidence that you may have incurred PTSD during military service, and there is insufficient evidence that your misconduct may be related to symptoms associated with PTSD. 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,

12/20/2021

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Executive Director
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