



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: 4697-21
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.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A three-member panel of the Board, sitting in executive session, considered your application on 20 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 22 October 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 5 February 1991. On 7 February 1991, you were briefed on the Navy's policy concerning drug and alcohol abuse. On 23 July 1991, you took an overdose of Nytol while drunk and pending nonjudicial punishment (NJP) for unauthorized absence (UA). At that time, you were recommended for inpatient treatment. On 8 August 1991, you received NJP for five days of UA. In September 1991, you completed Level III inpatient treatment of alcohol dependence. On 21 October 1991, you were counseled and

retained in the Navy after your failure to drive while properly licensed, and driving too fast for road conditions. On 6 February and 27 March 1992, you received NJP for assault, two specifications of UA, underage drinking, making a false official statement, assault consummated by a battery, and being drunk and disorderly. On 1 April 1992, you were notified of administrative discharge action by reason of alcohol abuse rehabilitation failure, a pattern of misconduct, and misconduct due to commission of a serious offense. On 2 April 1992, a Drug and Alcohol Report found you to be alcohol dependent, not eligible for counseling or rehabilitation, and that you had no potential for future Naval service. On 8 April 1992, you were diagnosed by a medical officer to be alcohol dependent. At that time, you disagreed with the diagnoses and waived treatment via the Department of Veterans Affairs. On 28 April 1992, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 7 May 1992, the separation authority directed that you receive an OTH discharge due to a pattern of misconduct. On 26 May 1992, you were discharged 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 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 that 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: (a) upon entry into the Navy, you started having symptoms of anxiety and depression, started drinking to cope with these feelings of despair, started fighting, and developed a severe schizophrenic tendencies and withdrawal from Navy activities; (b) you were injured in a severe car rollover, incarcerated in jail, which furthered your downward spiral, went home on leave and felt an overwhelming feeling of depression and suicidal thoughts; (c) you left the military, were homeless for one year, entered rehab and were diagnosed with schizophrenia and alcoholism. 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, the fact that you were briefed on the Navy's policy concerning drug and alcohol abuse, and failure to adhere to your command alcohol rehabilitation treatment program, 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 that 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,

1/11/2022

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Executive Director

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