



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: 4896-21
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.

The Board determined that your personal appearance via video or telephone, 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 7 February 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.

On 20 May 1988, you reenlisted in the Navy after serving over three years of honorable service. On 3 September 1988, you acknowledged reading your command instructions regarding drug and alcohol abuse. On 7 November 1988, you received nonjudicial punishment (NJP) for wrongful use of cocaine. Additionally, you were screened and found not to be in need of

treatment. On 15 November 1988, you were notified of administrative discharge action by reason of misconduct due to drug abuse. After being afforded your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. On 20 December 1988, a Drug and Alcohol Report stated you were not dependent on drugs, exhibited no potential for further military service, and not recommended for advancement or retention in the Navy. Your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 8 March 1989, the separation authority directed that you receive an OTH discharge due to drug abuse. On 21 March 1989, 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 were suffering from 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 you had no record of drug abuse, you were already discharged from the Navy when the misconduct occurred, and you assisted an FBI investigation into drug use on your ship but that you were not involved personally. 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 NJP for wrongful drug use outweighed these mitigating factors. The Board also 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,

2/11/2022

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Executive Director

Signed by: █