



**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: 4951-21  
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 10 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 5 November 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 8 November 1983. On 15 November 1983, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 29 November 1983, you were granted a pre-service experimental waiver for marijuana use. On 12 July 1984, you were counseled regarding minor disciplinary infractions or patterns of misconduct with military or civil authorities. You were warned that further deficiencies in your performance and/or conduct could result in administrative discharge action. During the period from 16 July 1984 to 17 April 1986, you received four nonjudicial punishments (NJPs) for two periods of unauthorized absence (UA), two specifications of larceny, and wrongful appropriation. On 11 June 1986, you were counseled and retained in the Navy regarding the wrongful use of marijuana. You were warned that further deficiencies could result in administrative discharge action. On 17 June 1986, you were convicted by summary court-

martial (SCM) of UA and assault. On 11 July 1986, you were notified of administrative discharge action by reason of misconduct due to a pattern of misconduct, and misconduct due to commission of a serious offense. After being advised of your procedural rights, you elected to waive your right to have your case heard before an administrative discharge board. On 4 August 1986, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 11 August 1986, you received NJP for two days of UA. On 19 August 1986, the separation authority directed your transfer for separation processing. On 21 November 1986, you were convicted by special court-martial (SPCM) of two days of UA, insubordinate conduct and six specifications of being absent from your appointed place of duty. On 30 April 1987, you were convicted by SPCM of attempts, forgery and uttering checks with insufficient funds. You were sentenced to a period of confinement and a bad conduct discharge (BCD). You received your BCD on 9 December 1988.

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 an opioid addiction or mental health condition during your service. The AO noted that based on the current available evidence, there is insufficient evidence that you may have incurred an unfitting mental health condition during military service, and there is insufficient evidence that all of your 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 assertions that: (a) your discharge should be upgraded on the grounds of the "Insanity Exception" rule due to being under stress of marital problems, immaturity, medical condition, and drug addiction to mental anguish; and (b) harassment, ostracism, and targeting by leadership increased your stress and substance use, and your experienced chronic pain from a lifting accident that injured your back and hips contributing to a cycle of increased alcohol, substance use, and misconduct until you were separated from service. 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 five NJPs, SCM, two SPCM convictions, and the fact that you were counseled and warned on more than one occasion of the consequences of further misconduct, 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 an unfitting mental health condition during military service, and there is insufficient evidence that all of your misconduct could be mitigated by a 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,

1/21/2022

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Executive Director

Signed by █