



**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: 5423-21  
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 telephone or video, 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 20 October 2021, which was previously provided to you.

You reenlisted in the Navy on 8 October 1986 after serving four years of prior honorable service. On 16 October 1986, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 18 April 1986, you received nonjudicial punishment (NJP) for wrongful possession of cocaine and disorderly conduct bringing discredit upon the armed forces. You were awarded a Punitive Letter of Reprimand. On 4 May 1989, you received your Punitive Letter of Reprimand for being arrested by civil authorities for possession of cocaine, and violation of UCMJ by

wrongfully possessing cocaine and conducting yourself in a disorderly manner. Further, you misrepresented yourself to your command by requesting special liberty in order to attend traffic court, when you were actually attending court for possession of cocaine. On 19 June 1989, you received NJP for wrongful use of cocaine. On 25 July 1989, 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. Your record shows that you submitted the following undated statement: “[o]n the weekend of the Labor Day Holiday, I went home to █ where I spent the weekend. I ran into a friend in my neighborhood and we went to his house where there were other friends. We all were drinking and I did take cocaine. I regret it, but I did do cocaine.” On 27 July 1989, medical personal found that you were not physically dependent on drugs, but found you psychologically dependent on drugs, and not in need of detoxification. Your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 24 August 1989, the separation authority directed that you receive an OTH discharge due to drug abuse. On 14 September 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 a traumatic brain injury (TBI) during your service. The AO noted that based on the available evidence, the preponderance of objective evidence failed to establish you suffered from a TBI or other unfitting mental health conditions at the time of your military service, or your in-service misconduct could be attributed to TBI or other unfitting mental health conditions.

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 involved in an automobile accident in 1987, and suffered from a TBI, that you did not receive proper medical treatment and follow-up for your condition, and given medication for headaches that did not help, so you began self-medicating which resulted in your discharge. 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 two NJPs, both of which involved drugs, and your involvement with civil authorities for possession of drugs, 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 a TBI or other unfitting mental health conditions at the time of your military service, or your in-service misconduct could be attributed to TBI or other unfitting mental health conditions. 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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