



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

■  
Docket No: 6335-21  
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.

Although you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 14 March 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 January 2022, and you were given 30 days in which to submit a response. When you did not provide a response, your case was submitted to the Board for consideration

You enlisted in the Navy and began a period of active duty on 19 July 1982. On 3 January 1983, you received nonjudicial punishment (NJP) for wrongful possession of hashish. On 4 January 1983, a Counseling and Assistance Center (CAAC) reported your alleged drug history and classified you as a psychologically dependent abuser of illicit drugs. You were not recommended for counseling at the CAAC level since it was opined that you would experience drug involvement in the future and your prognosis for continued useful military service was poor without the benefit of a rehabilitation program. On 14 January 1983, you acknowledged you were counseled for drug abuse, were being retained in the Navy, and warned that further

misconduct could result in administrative discharge action. On 2 February 1983, a Substance Abuse Report found you drug dependent and recommended you be administratively discharged from the Navy via the Veterans Administration hospital. On 19 July 1983, you were the subject of a medical evaluation for anxiety and depression. You were recommended for a CAAC screening, and if no treatment was recommended, you be administratively separated from the Navy for the convenience of the government. On 11 August 1983, you received NJP for three days of unauthorized absence. On 22 August 1983, you were identified as a drug user based on a confirmed positive urinalysis test conducted on 8 August 1983. On 26 August 1983, 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 6 September 1983, your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge. On 19 September 1983, the separation authority directed that you receive an OTH discharge due to drug abuse. However, based on your Certificate of Release or Discharge from Active Duty (DD Form 214), on 26 September 1983, you were discharged from the Navy with a general 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, there is insufficient evidence that you incurred an unfitting mental health condition during military service. The AO also concluded there is insufficient evidence that your 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 you incurred disabling depression during military service, which contributed to your misconduct, and continued throughout your life. You also argue that your characterization of service is "obsolete in today's world." Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct that resulted in two NJPs, one of which involved illegal drug possession, outweighed these mitigating factors. The Board also concurred with the AO that based on the available evidence, there is insufficient evidence that you incurred an unfitting mental health condition during military service or that your misconduct could be attributed to an unfitting mental health condition. Based on these findings, the Board concluded that your assigned characterization of service remains appropriate since significant negative aspects of your conduct and performance of duties outweighed the positive aspects of your service with the Navy. The Board determined that you were afforded multiple opportunities to correct your behavior that formed the basis for your discharge and continued to commit misconduct. 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,

3/24/2022



Executive Director

Signed by: █