



**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: 6705-21  
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 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 10 December 2021, which was previously provided to you.

You enlisted in the Navy and began a period of active duty on 22 September 1987. On 23 September 1987, you were briefed on the Navy's policy regarding drug and alcohol abuse. On 10 October 1991 and 16 March 1992, you received nonjudicial punishment (NJP) for failing to go to your appointed place of duty, failure to obey a general regulation, and two specifications of unauthorized absence (UA) totaling 29 days. Additionally, you were counseled and warned that further misconduct, could result in administrative discharge action. On 19 March 1992, a medical dependency screen determined you did not have a dependency, and you were not recommended for drug rehabilitation other than information in a Level II type program. On

2 April 1992, a Navy Drug Lab message reported you tested positive for cocaine use. On 7 April 1992, you received NJP for wrongful use of cocaine. On 4 May 1992, you were notified of administrative discharge action by reason of misconduct due to a pattern of misconduct and misconduct due to drug abuse. After being afforded your procedural rights, you elected to waive your right to request to have your case heard before an administrative discharge board. Your case was forwarded to the separation authority with the recommendation that you receive an other than honorable (OTH) discharge due to your misconduct. On 16 June 1992, you received NJP for failing to go to your appointed place of duty. On 17 June 1992, the separation authority directed you receive an OTH discharge due to a pattern of misconduct. On 6 July 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 were suffering from █ during your service. The AO noted that based on the available evidence there is insufficient evidence that you incurred █ during military service. There is insufficient evidence you incurred an unfitting mental health condition during military service, and there is insufficient evidence that your misconduct could be attributed to █ or another unfitting █ 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 PTSD and other mental health conditions following your service during the Desert Storm/Shield and statements of support from family regarding your medical and emotional concerns following your deployment. 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 misconduct that resulted in four NJPs, one of which was for wrongful drug use, and the fact that you were briefed on the Navy's policy regarding drug use outweighed these mitigating factors. The Board concluded the seriousness and frequency of your misconduct was too serious to be offset by your medical conditions and assertions of mental health issues. In making this finding, the Board also concurred with the AO that there is insufficient evidence that you incurred PTSD during military service. There is insufficient evidence you incurred an unfitting mental health condition during military service, and there is insufficient evidence that your misconduct could be attributed to PTSD or another unfitting mental health condition. Therefore, the Board determined that your OTH characterization of service remains appropriate in your case since your conduct, when balanced against the mitigation evidence you presented, still constitutes a significant departure from that expected from a Sailor in the Navy. 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,

2/22/2022

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Executive Director

Signed by: █