



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

█  
Docket No: 7275-21  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted 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 limitations 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 4 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 this 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 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). The Board also considered the advisory opinion (AO) furnished by a qualified mental health provider, which was previously provided to you. Although you were afforded the opportunity to submit a rebuttal, you did not do so.

You served honorably during your first enlistment in the Navy from 4 February 1986 to 3 March 1989. You reenlisted and began a second period of active duty on 30 May 1989. On 5 February 1992 the Naval Drug Laboratory determined that you tested positive for cocaine use. You received nonjudicial punishment (NJP) on 7 February 1992 for wrongful cocaine use in violation of Article 112a, Uniform Code of Justice. You were notified of administrative separation processing by reason of misconduct due to drug abuse and requested that an administrative discharge board (ADB) review your case. The ADB convened on 9 March 1992, unanimously substantiated that the misconduct had occurred, and recommended that you be separated from the naval service with an other than honorable (OTH) characterization of service. On 1 June 1992 you underwent a drug and alcohol assessment and were evaluated as psychologically alcohol dependent and not drug

dependent. You accepted inpatient treatment from a Department of Veterans Affairs (VA) facility on 11 August 1992 but declined any further assistance from the VA on 12 August 1992. Your commanding officer concurred with the ADB's recommendation and you were discharged on 12 August 1992 with an OTH characterization of service.

You contend that you completed your first enlistment aboard the [REDACTED] honorably and were scheduled to complete two years of inactive duty in the Reserves; however on 19 April 1989 the [REDACTED] suffered an explosion killing 47 of your shipmates and friends. You state you reenlisted, did not give yourself time to grieve, never sought counseling, and you still have nightmares. You state you are now seeking counseling for mental health and have not been involved with drugs or alcohol since your discharge.

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 contentions noted above and desire to upgrade your discharge. The Board also relied on the AO in making its determination. The AO noted that you did not provide any post-service medical evidence in support of your claims. Furthermore, your statement did not provide sufficient detail to determine a nexus with your misconduct. Consequently, the AO concluded that there was insufficient evidence that you may have incurred PTSD or another unfitting mental health condition during military service or your misconduct could be attributed to PTSD or another unfitting mental health condition. In its deliberations, the Board concurred with the AO and also determined that cocaine use was not indicative of a coping mechanism. Additionally, the Board noted that you did not provide any post-conduct documentation in support of your application. Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and ADB, outweighed these mitigating factors. 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,

3/22/2022

[REDACTED]  
Executive Director  
[REDACTED]  
[REDACTED]