



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

██████████  
Docket No. 9366-22  
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 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 Board waived the statute of limitation 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 5 May 2023. 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). The Board also considered the advisory opinion (AO) of a qualified mental health provider, which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

You enlisted in the Navy, noting pre-service marijuana use during your entrance screening, and began a period of active duty on 3 February 1984. You completed your first period of service honorably and reenlisted on 28 January 1988. You absented yourself without authority from 17 February 1988 through 28 February 1988, returning by voluntary surrender with no apparent disciplinary action.

Subsequently, you reported to for duty aboard the ██████████ on 30 April 1988, and self-referred to Drug and Alcohol Prevention Awareness (DAPA) for drug abuse screening after reportedly smoking marijuana laced with cocaine on 28 September 1988. The DAPA referred you for medical screening which found you not to be drug dependent. However,

by 9 March 1989, your medical record indicates that the Counseling and Assistance Center had screened you and recommended level III rehabilitation treatment for cocaine dependence. Shortly thereafter, you were convicted by civilian authorities for driving without a license, driving under a suspended license, and speeding.

You commenced treatment for drug addiction on 27 March 1989. After completing treatment, you continued to serve until 15 September 1989, when you were subject to nonjudicial punishment (NJP) for wrongful use of cocaine. Although you were counseled at the time of your NJP, regarding being a drug abuser and rehabilitation failure, your entire punishment was suspended. You were subsequently counseled again, on 30 November 1989, regarding your retention in the Navy provided that you successfully participated in command level I intervention program for one year, without further illegal drug use. You continued to serve for the duration of that one year period without further incident; however, on 7 January 1991, a drug lab message identified your urine sample as positive again for cocaine metabolites.

As a result, you were notified, on 23 January 1991, of processing for administrative separation for misconduct due to drug abuse and elected to waive your rights to consultation with counsel and a hearing before an administrative separation board. Commander, Navy Personnel Command, approved the recommendation for your discharge under Other Than Honorable (OTH) conditions but required that you be offered the opportunity for in-patient treatment at a Department of Veteran's Affairs hospital prior to your discharge, which you accepted. You were hospitalized for rehabilitation treatment in March 1991 and discharged, on 30 April 1991, with an OTH.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge to "Honorable" and your contentions that your life was repeatedly threatened while you waited to testify in court-martial against four shipmates, you were transferred from your command and placed into "protective custody" until the trial, and required your reassignment after the trial. You also contend that you feared you would encounter someone from your previous command at your new duty station, began having nightmares, and you felt constant fear that your life was in danger. You claim caused auditory and visual hallucinations resulted in your return to using drugs to self-medicate and "dull the pain." You also state that, post-discharge, you have been treated for post-traumatic stress disorder (PTSD) and drug addiction. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

Because you contend that a mental health condition affected the circumstances of your discharge, the Board also considered the AO. The AO stated in pertinent part:

During military service, the Petitioner was diagnosed with alcohol and substance use disorders. Substance use and problematic alcohol use are incompatible with military readiness and discipline and do not remove responsibility for behavior. There is no evidence that he was diagnosed with another mental health condition in military service. He has provided no medical evidence in support of his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. Additional records

