



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: 1438-21
Ref: Signature Date

Dear ■■■■■

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 your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 31 March 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 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You enlisted in the Navy on 26 October 1992. On 27 August 1993, you received non-judicial punishment (NJP) for absence from appointed place of duty. On 2 February 1996, you received NJP for wrongful use of marijuana. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After you elected to waive your rights, your commanding officer (CO) recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct. On 4 April 1996, you were discharged.

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 desire to upgrade your discharge and your contentions

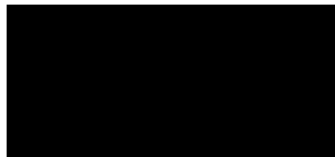
that you were told by superiors that the fastest way to get out of the Navy and care for your mother was to plead to drug use and you were also told the quickest way to approach the situation was to accept an OTH discharge. Based upon this review, the Board concluded that these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your two NJPs and violation of the Navy's "Zero Tolerance" drug policy outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your contentions that you were told by superiors that the fastest way to get out of the Navy to care for your mother was to plead to drug use and you were told the quickest way to approach the situation was to accept an OTH discharge, the Board noted that there is no evidence in your record, and you submitted none, to support your contentions. The Board noted that the record shows that you were notified of, and waived your right to present your case to an Administrative Discharge Board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention, assistance or a more favorable characterization of service.

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,

4/5/2021



Executive Director

Signed by:

