



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: 2684-21
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 29 October 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 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You reenlisted and entered a period of active duty in the Navy on 7 September 1984 after serving honorably during your first enlistment from 30 March 1981 to 6 September 1984. On 2 August 1985 you received nonjudicial punishment (NJP) for wrongful use of marijuana onboard a naval installation in violation of Article 112a, Uniform Code of Military Justice (UCMJ). A substance abuse report dated 15 August 1985 noted you were pending completion of Level 1 treatment. You received a second NJP on 30 July 1986 for wrongful use of marijuana onboard a naval installation and the surrounding area in violation of Article 112a, UCMJ. On 18 August 1986 you were notified of administrative separation processing by reason of misconduct due to drug abuse as evidenced by your NJPs, and you waived your procedural rights. You were discharged on 3 October 1986 with an other than honorable (OTH) characterization of service.

You contend you received an OTH characterization of service because you failed two urinalysis screenings, testing positive for marijuana. You further contend you were unaware of the OTH until this year, that you were recently diagnosed with medical problems, and that you have no other insurance.

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. 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 two NJPs and administrative separation processing, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief. Furthermore, the Board noted you did not provide any post-service documentation or advocacy letters in support of your request for an upgraded characterization of service. Additionally, whether or not an individual is entitled to veterans' benefits is a matter under the cognizance of the Department of Veterans Affairs (VA), and you may contact the nearest office of the VA concerning your right to apply for benefits, particularly in light of your honorable period of service during your first enlistment. If benefits have been denied, you may be able to appeal the denial under procedures established by the VA.

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,

11/15/2021

[REDACTED]

[REDACTED]

Executive Director

Signed by: [REDACTED]