



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: 3714-21
Ref: Signature Date



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 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 7 July 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 Marine Corps and began a period of active duty on 22 July 1992. On 23 November 1993, you received non-judicial punishment (NJP) for wrongful use of marijuana.

Subsequently, you were notified that you were being recommended for administrative discharge from the Marine Corps because of misconduct due to drug abuse. You were advised of, and waived, your procedural rights, including your right to consult with and be represented by military counsel, and your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending administrative discharge from the Marine Corps with an other than honorable (OTH) characterization of service. The SA approved the CO's recommendation and directed your OTH discharge from the Marine Corps by reason of misconduct due to drug abuse. On 15 February 1994, you were so discharged.



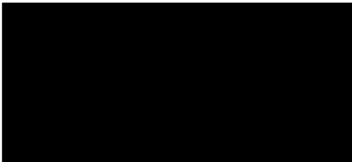
The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge. The Board also considered your contention that you served faithfully and served your country with honor. 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 an NJP, involving the wrongful use of a controlled substance, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Additionally, be advised decisions reached by the Department of Veterans Affairs (VA) to determine if former servicemembers rate certain VA benefits do not affect previous discharge decisions made by the Marine Corps. The criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than that used by the Marine Corps when determining a member's discharge 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,

7/20/2021



Executive Director

Signed by:

