



**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: 4847-21  
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 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 13 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 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 27 September 1984. On 18 June 1986, you received non-judicial punishment (NJP) for two specifications of absence from appointed place of duty. In July 1986, you also tested positive for marijuana. On 4 August 1986, you received NJP for being in an unauthorized absence (UA) status. Subsequently, on 17 August 1986, you were notified of pending administrative separation action by reason of misconduct due to drug abuse and elected to waive your rights. On 27 August 1986, you received a medical evaluation from the Counseling and Assistance Center (CAAC) and admitted to using/abusing marijuana while on active duty. As a result, CAAC recommended you be separated from the Navy. On 31 August 1986, you received an additional NJP for wrongful use of marijuana. On 5 September 1986, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to drug abuse, with an other than

honorable (OTH) characterization of service. The SA approved the CO's recommendation and on 23 September 1986, 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 and contentions that you were young and immature, you were told you could upgrade your discharge to a general discharge, you need Department of Veteran Affairs (DVA) benefits, and you are now a changed man that walks with Jesus.

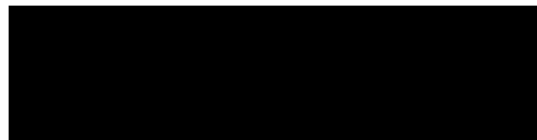
The Board noted that the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. The Board noted that there is no provision in law or regulations that allows for re-characterization of a discharge automatically, due solely to the passage of time. The Board also noted that whether or not you are eligible for DVA benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits. Lastly, the Board noted while commendable, your post service conduct does not excuse your conduct while enlisted in the Navy or the basis for your discharge.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your three NJP 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.

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,

10/22/2021



Executive Director

