



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: 5008-21
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 20 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 25 June 1981. On 7 October 1983 and 3 July 1984, you received two separate instances of non-judicial punishment (NJP) for larceny and missing movement (respectively). On 18 October 1984, you received your third NJP for wrongful use of marijuana. On 1 November 1984, you received a substance abuse evaluation, and it was determined that you were not physically nor psychologically dependent on drugs. On 27 November 1984, you were notified that you were being recommended for administrative discharge from the Navy. You were advised of, and exercised, your procedural rights to consult with and to be represented by military counsel, and to present your case to an

administrative discharge board (ADB). Prior to the convening of your ADB, you received your fourth NJP for failure to report an offense committed under the Uniform Code of Military Justice and failure to report to your duty section after your Temporary Assigned Duty (TAD).

On 6 February 1985, an ADB was convened and recommended that you be separated from the Navy with an other than honorable (OTH) characterization of service. Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an OTH characterization of service. Upon review, the SA returned your administrative separation package back to your CO requesting that the ADB be reconvened and make findings based on the specific reasons and recommendation for your administrative separation from the Navy. On 8 April 1985, the ADB reconvened and found that you were guilty of misconduct due to commission of a serious offense and drug abuse and recommended administrative separation from the Navy with an OTH characterization of service. On 23 April 1985, the SA approved the recommendation and directed your separation from the Navy with an OTH characterization of service by reason of misconduct due to commission of a serious offense. On 1 May 1985, 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 character of service. The Board also considered your contention that you were “young and stupid.” You further state that from your understanding of what you know now, you wish you could do it over.

The Board noted you did not submit any documentation or advocacy letters in support of your application to be considered for clemency consideration. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by four NJPs, that included 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.

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,

11/5/2021

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Executive Director
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