



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: 5095-21

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 1 November 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 and commenced a period of active duty on 25 June 1985. On 4 January 1986, you received a formal written warning relating to an alcohol-related incident that occurred on 24 December 1985. On 18 May 1987, you received nonjudicial punishment for using marijuana. You were then placed into an aftercare program, during which you received weekly urinalysis testing. On 5 August 1987, you tested positive again for using marijuana. On 4 September 1987, you were evaluated by a medical officer, who determined that you were not drug dependent. On that day you were also notified of the initiation of administrative separation processing and your rights in connection therewith. You waived your right to an administrative board, and on 9 September 1997, your commanding officer recommended that you be discharged with an other than honorable characterization of service. In his recommendation letter, your commanding officer explained that you received nonjudicial punishment for use of marijuana as a result of a random urinalysis, you were then placed in an aftercare program, and during the

aftercare program you tested positive on a weekly urinalysis. Thus, according to your commanding officer, you had no potential for further useful service. On 14 September 1987, the discharge authority directed that you be discharged with an other than honorable characterization of service, and on 17 September 1987, you were so discharged.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. You contend in your petition that your chain of command made a material error of discretion by issuing you an unduly harsh characterization of service, and that this error has prejudiced you since 1987. You explained that upon returning from your first deployment you were faced with multiple family crises. You contend that your chain of command failed to provide you the proper leadership and training in order for you to succeed. You also contend that, post-service, you have persevered to support your family and contribute to your community, that you have demonstrated rehabilitation, and that you continue to bring value to the country as a model citizen. You have stated that you have worked consistently since the time of your discharge in the trucking field, and you provided several positive letters of reference in support of your work ethic and your reputation in the community. You state that you have taken responsibility for your mistake, and your letters note, among other things, that you are an active member of your church where you often help others.

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. After careful review of your contentions, there is nothing that you stated that demonstrates there was an error or injustice in your record. With respect to your assertion that your chain of command made a material error in judgment and did not provide you appropriate leadership and training, your record demonstrates that, after the first time you tested positive for marijuana, you were enrolled in an aftercare program. You were processed for discharge after your second positive urinalysis for use of marijuana. You have not provided any matters demonstrating that your chain of command failed you in any regard, and there is no material in your record that supports this assertion. With respect to the post-service matters that you provided, the Board commended you on your successful endeavors, but determined that your misconduct outweighed the mitigating factors that you submitted. 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 the 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, _____

11/6/2021

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Executive Director

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