

DEPARTMENT OF THE NAVY BOARD FOR CORRECTION OF NAVAL RECORDS 701 S. COURTHOUSE ROAD, SUITE 1001 ARLINGTON, VA 22204-2490

> Docket No: 5200-21 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 threemember 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 and began a period of active duty on 1 July 1981. On 30 August 1982 and 7 August 1983, you received non-judicial punishment (NJP). Your offenses were check, making and uttering by dishonorably failing to maintain funds, absent from your appointed place of duty and two specifications of signing or making false official statement. On 11 January 1984, you received your third NJP for wrongful use and possession of marijuana.

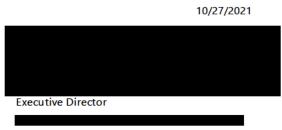
Subsequently, you were notified that you were being recommended for administrative discharge from the Navy. You were advised of, and waived, your procedural rights, including your right to consult with and be represented by military counsel, and your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending administrative discharge from the Navy with an other than honorable (OTH) characterization of service. The

SA approved the CO's recommendation and directed your OTH discharge from the Navy by reason of misconduct due to drug abuse. On 19 April 1984, 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 your discharge was inequitable because it was based on one isolated incident in your 34 months of service.

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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by three NJPs, one of which involved the wrongful use and possession of a controlled substance, outweighed these mitigating factors. Additionally, the Board noted there is no precedent within this Board's review, for minimizing the "one incident." As with each case before the Board, the seriousness of a single act must be judged on its own merit; it can neither be excused nor extenuated solely on its isolation. 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,