



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

█
Docket No: 5236-21
Ref: Signature Date



Dear █:

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).

You enlisted in the Navy on 13 July 1987. On 14 July 1988, you received non-judicial punishment (NJP) for wrongful use of marijuana. On 10 August 1988, a special court-martial (SPCM) convicted you of unauthorized absence (UA) totaling 140 days and missing ship's movement. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After electing to waive your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to drug abuse, with and other than honorable (OTH) characterization of service. The SA approved the CO's recommendation and on 7 November 1988, 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 told you would go straight to the ship after basic training and receive on the job training (OJT), which never occurred and you went UA because your mother was ill and you were denied leave. The Board also noted your contention that you were told your discharge could be upgraded to honorable after one year.

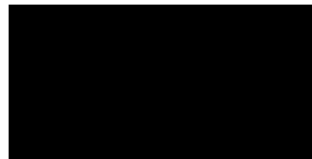
The Board noted that there is no evidence in your record, and you submitted none, to support your contentions. The Board noted that the record shows that you were notified of, and waived, your right to present your case to an Administrative Discharge Board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention, assistance, or a more favorable characterization of service. Lastly, 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.

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 your NJP, SPCM conviction, 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,

10/27/2021



Executive Director

Signed by:

