



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: 5277-21
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 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 15 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 U.S. Navy and began a period of active duty on 6 September 1988. On 8 September 1988, you were briefed on the Navy's drug and alcohol abuse policy. On 16 September 1988, you received an administrative entry identifying you to be a drug abuser due to testing positive on a urinalysis while at Recruit Training Command. As a result, you were placed on a drug urinalysis surveillance program. From 4 January 1988 through 4 June 1989, you were in an unauthorized absence (UA) status on four (4) separate occasions; your last UA totaling 11 days. On 8 October 1989, you received nonjudicial punishment (NJP) for your 11-day UA. On 7 December 1989, you received a second NJP for wrongful use of marijuana. On 8 December 1989, you were subsequently notified of your pending administrative separation due to drug abuse, at which time, you waived your right to consult with counsel and to an administrative discharge board. Further, you were notified of the commanding officer's (CO) intent to recommend to the separation authority that you be discharged with an other than honorable (OTH) characterization of service. In December 1989, the separation authority agreed with your

CO and directed your discharge by reason of misconduct for drug abuse. On 28 December 1989, you were discharged with an OTH.

You contend that: (a) you were dealing with family issues and horrible trauma at home; (b) you were young and confused, and your father was abusive to you and your mother; (c) while you were on leave your father was violent, which played a part in you not thinking straight; (d) you never abused drugs, this was a “one off,” at the time you felt you needed to vent to your brother who was smoking a marijuana cigarette and you took a “hit” of the cigarette; and (e) you have regretted this decision ever since, you have let this mistake be an example to your kids as well as your new wife and grandchildren, and as a leader in the church you would like your case to be reconsidered for your future. 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 contentions noted above. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. 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 NJPs, 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 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,

12/4/2021

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Executive Director
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