



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: 5749-21

Ref: Signature Date

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Dear █ █ :

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 18 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, 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 Marine Corps and began a period of active duty on 8 April 1985. On 31 July 1985, you began a period of unauthorized absence (UA) which lasted 7 hours and 40 minutes. On 13 August 1985, you received nonjudicial punishment (NJP) for a period of UA and failure to report to your appointed place of duty. On 29 August 1985, you began a second period of UA which lasted 4 hours and 20 minutes. On 14 November 1985, you were convicted by special court-martial (SPCM) for two periods of UA, missing from appointed place of duty, disobeying a lawful order from a superior commissioned officer, disobeying a lawful order from a noncommissioned officer, wrongful possession and use of a controlled substance, and being absent from your appointed place of duty. You were sentenced to reduction to the rank of E-1, confinement, and forfeiture of pay. On 26 February 1986, you began a third period of UA, which lasted 7 hours and 45 minutes. On 27 February 1986, you began a fourth period of UA, which lasted 5 hours and 10 minutes. On 3 March 1986, you began a fifth period of UA which lasted 7 hours and 45 minutes. On 12 March 1986, you received a second NJP for three periods of UA, wrongful possession of drug paraphernalia, and wrongful possession of a controlled substance. On 13 March 1986, you were notified of the initiation of administrative separation proceedings by

reason of misconduct due to illegal possession of marijuana and drug paraphernalia. On 14 March 1986, you elected to waive all of your procedural rights. On 19 March 1986, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 16 April 1986, your administrative separation proceedings were determined to be sufficient in law and fact. On 17 April 1986, the discharge authority approved and ordered an OTH discharge by reason of misconduct due to drug abuse. On 18 April 1986, you were 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 contention that you needed to support your family following your mother's medical diagnosis, and your contention that you are currently homeless and in need of VA housing. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. The Board noted you did not submit any documentation or advocacy letters to be considered. 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,

11/2/2021

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Executive Director

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