

DEPARTMENT OF THE NAVY

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

Docket No: 5839-21

3554-11

Ref: Signature Date



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.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A three-member panel of the Board, sitting in executive session, considered your application on 29 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 this 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 and entered a period of active duty in the Navy on 7 July 1986. On 23 April 1987 you received nonjudicial punishment (NJP) for being absent from your appointed place of duty and for two specifications of wrongful use of cocaine, in violation of Articles 86 and 112a of the Uniform Code of Military Justice (UCMJ). You were notified of administrative separation processing by reason of misconduct due to drug abuse on 28 April 1987 and waived your procedural rights. A drug and alcohol abuse report dated 6 May 1987 noted that your drug use was detected by unit and random sweep urinalyses, both confirmed by the Navy Drug Laboratory. You were evaluated by medical, found to be non-dependent, and recommended for discharge. You received a second NJP on 7 May 1987 for six specifications of unauthorized absence in violation of Article 86, UCMJ. Subsequently, on 29 May 1987 you were discharged with an other than honorable characterization of service.

Docket No: 5839-21 3554-11

You contend you were informed that your discharge status would be upgraded to a general (under honorable conditions) characterization of service and that you would like to be able to go to the Department of Veterans Affairs (VA) facilities.

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 and desire to upgrade your discharge. Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your two NJPs and administrative separation processing, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief. Furthermore, the Board noted you did not provide any post-service documentation or advocacy letters in support of your request for an upgraded characterization of service. Additionally, whether or not an individual is entitled to veterans' benefits is a matter under the cognizance of the VA, and you may contact the nearest office of the VA concerning your right to apply for benefits. If benefits have been denied, you may be able to appeal the denial under procedures established by the VA.

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.

