



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: 6250-21

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 24 January 2022. 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 Navy and began a period of active duty on 10 November 1981. On 2 November 1982, you received nonjudicial punishment (NJP) for wrongful use of a controlled substance-marijuana. On 10 November 1982, you were counseled for your drug abuse and advised that failure to take corrective action could result in administrative separation. On 12 February 1983, you received a second NJP for a period of UA. On 1 March 1983, you began a second period of UA which resulted in you missing ship's movement. As a result, you received a third NJP on 22 March 1983. On 22 July 1983, you received a fourth NJP for wrongfully using marijuana. On the same date, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to waive all your procedural rights. On 23 July 1983, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to drug

abuse. On 29 July 1983, the discharge authority approved and ordered an OTH discharge by reason of misconduct due to drug abuse. On 23 August 1983, you were discharged with an OTH due to misconduct (drug abuse). On 23 April 2012, the Board denied your previous application for a discharge upgrade based, primarily, on the seriousness of your misconduct while on active duty.

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 that you are no longer the same person you used to be while serving in the military, that you had a severe drug addiction which caused you to be unsuccessful in college and followed you throughout your time in service, and that you have since become a productive member of society. The Board also considered that you have been drug free since 1999 and have used your sobriety in a positive outreach manner. In addition, the Board considered your character letter of support. Unfortunately, despite the Board's appreciation that you have become a productive member of society, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your history of serious misconduct while on active duty, as evidenced by your NJPs, outweighed these mitigating factors. Therefore, based on the seriousness of your misconduct, the Board concluded the preponderance of the evidence supports findings that your conduct was a significant departure from that expected of a member of the Navy and that your Other than Honorable characterization of service remains appropriate. 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,

2/4/2022

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Executive Director

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