



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: 6291-21
Ref: Signature Date



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 11 May 1982. On 12 May 1982, you were briefed on the Navy's drug and alcohol abuse policy. You also signed a statement of understanding admitting to using drugs while in the delayed entry program. On 26 May 1982, you received additional administrative remarks for fraudulent enlistment and on 2 July 1982, a drug waiver was granted. On 17 May 1983, you received another administrative entry identifying you as a drug abuser based on a urinalysis test conducted on 29 April 1983. On 23 May 1983, you received your first nonjudicial punishment (NJP) for wrongful use of a controlled substance. Per a naval message dated 25 May 1983, you were identified as a drug abuser in July 1982 during recruit training. It further documented you exhibited outstanding potential for future naval service pending the completion of a Naval Drug Safety Action Program (NDSAP) course. On 22 June 1984, you received a second NJP for assault, two (2) specifications of unauthorized absence (UA), and willful disobedience of a superior commissioned officer. Soon after, on 17 July 1984, you received a third NJP for wrongful use of marijuana.

On 26 July 1984, you were subsequently notified of your pending administrative separation due to drug abuse and pattern of misconduct, 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. You had another period of UA from 30 July 1984 to 01 August 1984 for which you received a fourth NJP on 9 August 1984. In addition to your UA you were also charged with missing ship's movement and breaking restriction. In September 1984, the separation authority agreed with your CO and directed your discharge by reason of misconduct for drug abuse (use). On 7 September 1984, you were discharged with an OTH.

You contend you made some bad judgements. You further assert you think the test used during urinalysis testing was inaccurate. You add you served faithfully and are trying to obtain benefits. 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 your desire to upgrade your discharge characterization. The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations. 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 multiple drug uses and four (4) 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

Signed by: █