



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: 6384-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 10 December 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).

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.

You enlisted in the Navy and began a period of active duty on 27 July 1983. On 16 December 1983, you received non-judicial punishment (NJP) for an unauthorized absence and failure to obey a lawful written order. On 7 November 1984, you received your second NJP for wrongful use of marijuana. On 14 June 1985, you received your third NJP for failure to obey a regulation and contributing to the delinquency of minors by serving them alcohol. On 7 March 1986, you received your fourth NJP for wrongful use of marijuana.

Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. You were advised of, and exercised, your procedural right to consult with and to be represented by military counsel, and to present your case to an administrative discharge board (ADB). On 24 June 1986, an ADB was convened and recommended that you be separated from the Navy with an other than honorable (OTH) characterization of service. Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an OTH characterization of service. The SA approved the recommendation and directed your administrative discharge from the Navy with an OTH characterization of service by reason of misconduct due to drug abuse. On 1 August 1986, you were so 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 desire to upgrade your discharge character of service. The Board also considered your contentions that: (1) you were an undercover informant for the Naval Investigative Service (NIS) trying to infiltrate the drug dealing that was taking place onboard the ■ in or around 1984-85; (2) you did what you thought the job called for at the time, which was earn the trust of the dealers, purchase and log evidence for prosecution; and (3) you were a kid when this happened, and you would hate to be punished for the rest of your life over a positive urinalysis for marijuana, especially when smoking marijuana in the context as previously stated actually helped clean out the drug traffic in the command. The Board noted you did not submit any documentation or advocacy letters in support of your application to be considered for clemency consideration.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by four NJPs, two of which involved the wrongful use of a controlled substance, outweighed these mitigating factors. Additionally, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or sufficient evidence to warrant clemency. 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 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,

1/14/2022

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Executive Director

Signed by: ■