



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

█  
Docket No: 6404-21  
Ref: Signature Date



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 8 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 on 12 February 1981. On 10 June 1982, you received non-judicial punishment (NJP) for three specifications of unauthorized absence (UA) totaling nine days and eight hours. At an unidentified time in November 1982, you tested positive for marijuana on a command requested urinalysis due to your involvement in an accident. On 7 December 1982, you received NJP for being in a UA status for one day and violating a lawful general regulation. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. However, on 17 January 1983, you received an additional NJP for two specifications of UA totaling seven days and failure to obey a lawful regulation.

After you waived your procedural rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to drug abuse, with an other than honorable (OTH) characterization of service. The SA approved the CO's recommendation and on 28 February 1983, 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 and change your narrative reason for separation. The Board noted your contentions that you did not use drugs and you were discharged after refusing counseling. The Board also noted your contentions that since discharge, you own a registered patent, have run nine marathons, completed a half Ironman competition, became a US Coast Guard Merchant Mariner, and currently operate a Tug Boat on the [REDACTED]

The Board noted that there is no evidence in your record, and you submitted none, to support your contentions. The Board also noted that the record shows that you were notified of, and waived your right to, present your case to an Administrative Discharge Board (ADB). In doing so, you gave up your first and best opportunity to advocate for retention, assistance, or a more favorable characterization of service. Lastly, the Board noted while commendable, your post service conduct does not excuse your conduct while enlisted in the Navy or the basis for your discharge.

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 three NJPs and violation of the Navy's "Zero Tolerance" drug policy 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 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,

12/20/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]