



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: 6544-21
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 15 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).

You enlisted in the Navy Reserve, and began a period of active duty for training on 16 December 1980. On 15 June 1981, you received non-judicial punishment (NJP) for unauthorized absence (UA) for one day. On 20 April 1984, you received an additional NJP for UA totaling six hours and disobeying a lawful order. You completed active duty for training with an honorable characterization of service on 5 August 1981 and resumed your reserve status. At an unidentified time, you tested positive for marijuana on a command requested urinalysis. On 3 July 1986, your commanding officer (CO) notified you by certificated mail of his intention to recommend that you be separated from the Navy Reserve due to misconduct drug abuse. You failed to return the acknowledgement resulting in you waiving your rights. On 6 August 1986, your CO forwarded your package to the separation authority (SA) recommending your discharge due to misconduct drug abuse, with an other than honorable (OTH) characterization of service. The SA approved the recommendation, and on 9 September 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, and your contentions that your abrupt discharge from reserve duty was inequitable because it was based on one isolated incident after serving more than 5 years of honorable service on active and reserve duty, and you had one year left to complete your six year reserve obligation. The Board also noted your contention that you were not given an opportunity for rehabilitation to address your personal problems of substance abuse.

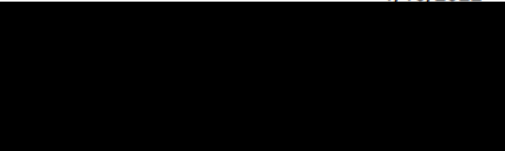
The Board noted that a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. The Board also noted that there is no evidence in your record, and you submitted none, to support your contention that you had substance abuse problems during your enlistment in the Navy Reserve prior to or after 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 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,

1/10/2022

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Executive Director

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