



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: 6605-21
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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 3 November 2021. The names and votes of the members of the panel 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 this 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 service on 31 January 2001. On 19 October 2001, you received non-judicial punishment (NJP) for failure to obey an order issued by your commanding officer. On 1 November 2001, you were counseled regarding the aforementioned NJP, and you were further notified deficiencies in your conduct may result in the initiation of administrative separation proceedings. You went on a period of unauthorized absence (UA) from 8 July 2002 to 10 August 2002. Upon your return from UA, on 10 August 2002 you underwent a urinalysis. On 4 September 2002, you were convicted at a summary court martial (SCM) for UA, missing ships movement, and violation of a lawful order. On 5 September 2002, the result of the urinalysis sample returned positive for marijuana. On

12 September 2002, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, misconduct due to pattern of misconduct, and misconduct due to the commission of a serious offense, at which point, you waived your rights to consult with counsel and review of your case by an administrative discharge board (ADB). Your commanding officer recommended your discharge from the naval service with an other than honorable (OTH) character of service. On 15 October 2002, the discharge authority approved and directed your separation with an OTH character of service by reason of misconduct due to drug abuse. On 15 October 2002, 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 characterization of service, and your contentions that your discharge was due to alleged drug abuse, and your current character of service is damning, and you were young and there was never any drug abuse. The Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, based on your naval record you tested positive for marijuana and you were appropriately processed for administrative separation proceedings. The Board found no error or injustice in your naval record. 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,

█ 12/3/2021

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Executive Director

Signed by: █