



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

█
Docket No: 6762-21

Ref: Signature Date

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Dear █:

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 13 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, 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 Naval Reserves on 28 December 1988. On 21 January 1989, you tested positive for a controlled substance during a urinalysis. On 21 January 1989, you were discharged with an uncharacterized entry level separation (ELS) discharge characterization of service by reason of testing positive during urinalysis. On 24 February 1990, you again enlisted in the Naval Reserves. On 14 May 1990, you began a period of active duty. On 17 March 1992, you were counseled for unauthorized absence (UA) and failure to obey a lawful order. You were advised that failure to take corrective action could result in administrative separation. On 28 March 1992, you began a second period of UA, which lasted four-days. On 15 April 1992, you began a third period of UA, which lasted 20 days. On 7 May 1992, you received nonjudicial punishment (NJP) for two periods of UA. On 20 May 1992, you received a second NJP for wrongful use of a controlled substance-marijuana. On 2 June 1992, you were notified about the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to waive all your procedural rights. On 30 June 1992, your commanding officer

recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 3 July 1992, the discharge authority approved and ordered and OTH discharge by reason of misconduct due to drug abuse. On 28 August 1992, you were 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 contention that you are seeking a discharge characterization upgrade with the intent to apply for VA benefits. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs, outweighed these mitigating factors. The Board noted you did not submit any documentation or advocacy letters to be considered. 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,

1/11/2022

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Executive Director
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