



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: 6826-21
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 1 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 Marine Corps and began a period of active service on 20 April 1998. On 22 September 1999, you tested positive in a urinalysis for lysergic acid diethylamide (LSD). On 19 October 1999, you received non-judicial punishment (NJP) for wrongful use of a controlled substance-LSD. On 2 February 2000, you were counseled regarding your illegal drug involvement and recommended to be seen by a substance abuse counselor. On 8 February 2000, you were evaluated by the substance abuse counseling center (SACC) and you were determined to be alcohol dependent. Subsequently, you were evaluated and recommended for inpatient treatment. On 23 February 2000, you were discharged from SACC as a treatment failure. At that time you were recommended for immediate administrative separation by the SACC. On 11 May 2000, you conditionally waived your right to a hearing before an Administrative Discharge Board (ADB). This request was based on your potential for rehabilitation and further useful service. On 20 June 2000, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, and misconduct due to alcohol rehabilitation failure. On the same day, you again waived your right to consult with counsel, and you waived your right of review of your case by an ADB. On 6 July 2000, your commanding

officer recommended your retention in the Marine Corps; however based on your misconduct, processing for administrative separation was mandated. On 25 August 2000, an ADB convened and determined you committed misconduct due to alcohol rehabilitation failure and drug abuse. The ADB recommended your discharge from the Marine Corps with an other than honorable (OTH) character of service. On 20 October 2000, the separation authority concurred with the ADB's recommendation. Subsequently, on 1 November 2000, you were discharged with an OTH characterization of service by reason of misconduct due to drug abuse.

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. You contend you were unknowingly drugged with LSD, which resulted in your positive urinalysis. You provide statements regarding the events leading up to your discharge from the Marine Corps. You contend you were unjustly discharged for drug use and you were told to say you were an alcoholic, which you contend you were not. Additionally, you provide the Board evidence of your positive post service conduct. The Board considered your contentions, and all the evidence you provided with your application, but found no basis to adjust your record. The Board determined you failed to provide evidence to support your contentions. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Subsequently, the Board found no error or injustice in your 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 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,

12/25/2021

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Executive Director

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