



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: 6845-21
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 1 December 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, as well as applicable statutes, regulations, and policies.

You enlisted in the Navy and began a period of active service on 9 October 2002. On 13 March 2003, you were counseled regarding the Navy's zero tolerance policy of drug and alcohol abuse. On 4 December 2003, you submitted an admission of marijuana use. On 13 January 2004, you received non-judicial punishment (NJP) for wrongful use of a controlled substance. On 13 January 2004, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you exercised your right to consult with counsel, and review of your case by an administrative discharge board (ADB). On 26 January 2004, an ADB convened and recommended your discharge from naval service with an other than honorable (OTH) character of service due to your drug abuse. On 30 January 2004, your commanding officer concurred with the recommendation of the ADB. On 24 February 2004, the discharge authority approved and directed your separation with an OTH character of service by reason of misconduct due to drug abuse. On 4 March 2004, 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. You

admit to your drug use but contend it was an isolated incident. You contend you received above average marks prior to your drug related misconduct, and your punishment was excessively harsh. The Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined you were sufficiently counseled on the Navy's zero tolerance policy, 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,

1/9/2022

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Deputy Director
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