



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: 6886-21
Ref: Signature Date



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 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 20 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).

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 U.S. Navy and began a period of active duty on 16 March 1973. Subsequently, you reenlisted three times resulting in three periods of honorable service. You then reenlisted for the last time on 26 October 1984. Thereafter, on 27 June 1985, you received your first nonjudicial punishment (NJP) for wrongful use of marijuana. On 30 July 1985, you were notified of your commanding Officer's (CO) intent to process you for administrative separation by reason of drug abuse, at which time, you waived your right to consult with counsel and to an administrative discharge board. On 8 August 1985, you received a second NJP for a separate specification of wrongfully using marijuana. On 20 August 1985, a drug abuse report

documented you were psychologically dependent on marijuana and recommended you attend Level III inpatient treatment and be administratively separated. You provided a statement on your behalf disputing and denying your first charge of marijuana use but admitting to your second charge of marijuana use, stating it was a direct result of personal problems you were facing. You also asked that your performance during your twelve years of service be considered as an other than honorable discharge would be unjust. In your CO's recommendation letter to the separation authority of 26 August 1985, your CO stated your separation processing was initiated after your second incident of drug abuse, which was found as a result of a random urinalysis. On 11 September 1985, the separation authority directed you be discharged with an OTH for drug abuse (use). On 16 September 1985, an administrative entry documents you understood you had a right to elect inpatient treatment at a Veterans Affairs hospital. Unfortunately, you declined to do so and on 20 September 1985, you were discharged. On 9 June 1986, you submitted an application to the Naval Discharge Review Board (NDRB), requesting an upgrade of your discharge. NDRB found your request did not warrant relief.

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 contentions that: (1) your wife deserted you and your two sons; (2) your children were having a difficult time; (3) you requested a hardship discharge in order to be closer to home for family support and assistance; (4) your CO informed you that your children were not issued with your seabag and you would not be transferred; and (5) your CO told you to "man up." The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. 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 two (2) NJPs for wrongful use of marijuana, 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 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,

1/13/2022

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Executive Director

Signed by █