



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: 7084-21

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 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.

A three-member panel of the Board, sitting in executive session, considered your application on 24 January 2022. 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).

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 duty on 25 June 1982. On 8 July 1983, you missed ship's movement and began a period of unauthorized absence (UA) which lasted until 30 July 1983. As a result, on 17 August 1983, you received nonjudicial punishment (NJP) for one period of UA, missing ship movement, and wrongful use of a controlled substance (cocaine). On 13 October 1983, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to present your case to administrative discharge board (ADB). On 18 November 1983, the ADB voted (3) to (0) that you committed misconduct due to drug abuse. Subsequently, the ADB recommended that you be separated from the Navy with an other than honorable (OTH) characterization of service, with the discharge being suspended for a year. On 28 November 1983, you elected to appeal the ADB

results. On 1 May 1984, your commanding officer (CO) recommended an OTH characterization of service by reason of misconduct due to drug abuse, and destruction of private property. On 26 June 1984, the discharge authority approved and ordered an OTH discharge by reason of misconduct due to drug abuse. On 28 June 1984, the results of your Article 138 investigation determined that your complaint against your CO was not cognizable. On 20 July 2021, the Board denied your previous application for a discharge upgrade.

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 were diagnosed with bi-polar disorder. You contend that the treatment provided to you while serving in the Navy did not accommodate your bi-polar disorder. You also contend that you were a good Sailor who was sick with bi-polar disorder. Further, you submitted additional evidence for the Board to consider including an e-mail to your supervisor, Salvation Army volunteer photos, one letter of recommendation, a non-profit brochure, a medical prescription, and two annual performance evaluations from your current employer. Despite this evidence, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJP, outweighed these mitigating factors. In the Board's opinion, the seriousness of your drug abuse, UA, and missing ship's movement was too serious to mitigate with the evidence you submitted. Therefore, when considering whether your characterization of service remains appropriate, the Board considered the circumstances of your discharge and found no error or injustice. The Board found no evidence that you were not mentally responsible for your misconduct or wrongfully discharged. Further, when the Board weighed your overall record of service against the misconduct, they concluded your conduct was a serious departure from that expected of a Sailor. Consequently, they determined the preponderance of the evidence supports leaving your OTH discharge unchanged. Accordingly, given the totality of the evidence, 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,

2/9/2022

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Executive Director

Signed by: █