



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: 7482-21
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 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, 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.

During your enlistment processing you disclosed civilian violations to include charges of driving under the influence, eluding the police, and reckless driving. Per DD Form, a waiver interview was conducted on 25 June 1991 and you were allowed to enlist.

You enlisted in the U.S. Navy (USN) and began a period of active duty on 22 January 1992. On 12 February 1993, you were counseled because you provided a false official statement and had a female in your room. On 29 November 1993, you were again counseled; this time regarding your departure on leave without properly checking out. You were counseled two additional times for

cheating by having answers to the AG2 Volumes I and II course tests and for disobeying a lawful order from an E-5 by again wearing an unauthorized rating badge in uniform when told to remove it and saying, "if you don't like my shirt then you buy me one!" On 1 June 1995, your urine tested positive for tetrahydrocannabinol (THC). On 7 Jun 1995, you refused NJP and your case was referred to a special court-martial (SPCM). On 18 September 1995, you admitted to smoking marijuana and submitted a request for separation in lieu of trial by court martial (SILT). On 20 October 1995, the discharge authority approved your request and you were discharged with an other than honorable characteristic of service on 27 October 1995.

You contend you were incorrectly discharged and that your positive urinalysis was a result of an over the counter pain reliever (ibuprofen) you were taking as a result of carrying 100 to 200 pound helium bottles while stationed aboard ships. You further assert using the pain reliever for several months resulted in your positive urinalysis adding you did not know that ibuprofen could cause a positive urinalysis. 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 noted above. 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, aside from your statement, medical documents, and character letters, you did not submit 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 positive urinalysis and your requested SILT, 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,

2/8/2022

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Executive Director

Signed by: █