



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: 450-22/
10616-06
Ref: Signature Date



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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 23 February 2022, has carefully examined your current request. 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 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.

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 presented as evidence a personal statement and a criminal history report. After careful and conscientious consideration of the entire record, the Board determined that the documentation that you provided, even though not previously considered by the Board, was insufficient to establish the existence of probable material error or injustice.

Regarding your contention that you were young, immature, and made a mistake, the Board noted that the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. Additionally, the Board found that your record of misconduct was substantial contrary to your assertion that you made a single mistake. Specifically, the Board found evidence that you tested positive for wrongful use of marijuana on at least four separate occasions despite efforts by your command to allow you to rehabilitate your conduct. Regarding your contentions that since discharge, you have been alcohol and drug free for 18 years, remarried, reconnected with family, became a deacon, worked on your job for eight years, and a successful business owner, the Board concluded that, while commendable, your post service conduct was insufficient mitigation evidence to excuse your conduct while enlisted in the Navy or the basis for your discharge. As a result, when weighing the seriousness of your misconduct against your active duty service, the Board concluded that the preponderance of the evidence supports a finding that your conduct was a significant departure from that expected from a Sailor and warrant an Other than Honorable characterization of service. 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,

3/2/2022

