



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: 482-22
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.

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 23 February 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.

You entered active duty with the Navy on 28 September 1979. During the period from 4 March 1981 to 13 October 1982, you received three non-judicial punishments (NJP) for possession of marijuana, wrongful possession of marijuana and residue, and wrongful use of marijuana. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB).

The ADB found that you committed misconduct due to drug abuse and recommended you receive an other than honorable (OTH) characterization of service. However, during the period from 1 March to 9 February 1983, you received two additional NJPs for wrongful use of marijuana and failure to obey a lawful order. On 19 April 1983, the separation authority (SA) concurred with the ADB and directed an OTH discharge by reason of drug abuse. On 24 April 1983, 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 discharge, and your contentions that you took responsibility for smoking marijuana, learned from your mistakes, turned your life around, and gave back to the community but teaching others about the effect of drug use.

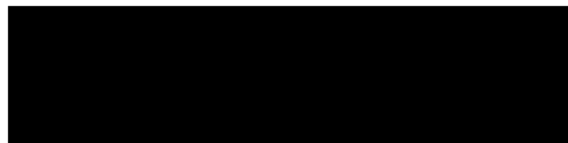
The Board noted that the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. The Board also noted while commendable, your post service conduct does not excuse your conduct while enlisted in the Navy or the basis for your discharge.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board determined that you were appropriately discharged for drug abuse based on your evidence of drug use. In weighing your drug related misconduct against the mitigation evidence in your case, the Board conclude the seriousness of your misconduct outweighed the mitigating factors. Specifically, the Board determined that your multiple drug offenses to be conduct that caused serious degradation to the good order and discipline of your command. Therefore, the Board determined that your conduct while serving in the Navy continues to warrant an OTH 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,

3/3/2022



Executive Director

Signed by: 