



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: 0609-22

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 28 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, 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 18 April 1988. On 22 December 1993, you received nonjudicial punishment (NJP) for wrongful possession of a controlled substance-marijuana. On 10 January 1994, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to waive all your procedural rights. On 15 February 1994, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 15 March 1994, the discharge authority approved and ordered an OTH

discharge characterization of service by reason of misconduct due to drug abuse. On 25 March 1994, you were 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 contentions that you had an outstanding record of service up until the incident that led you to be discharged, that you were not given adequate guidance from your superiors prior to receiving UCMJ, that your counsel misled you during your separation proceedings by telling you that an OTH discharge was your only choice, and that you have served your community by serving as a member of a school board. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that the seriousness of your misconduct, as evidenced by your NJP for drug abuse, outweighed these mitigating factors. Ultimately, the Board was not persuaded by your assertions and concluded that your drug offenses outweighed your mitigation arguments. In making this finding, the Board noted you did not submit any documentation or advocacy letters to be considered. 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,

3/21/2022

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Executive Director
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