



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No: 0823-22
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 25 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).

You enlisted in the Navy and began a period of active service on 21 August 1987. Prior to your entrance into active duty, on 20 November 1986, you were counseled regarding the Navy's policy on drug and alcohol abuse. On 1 September 1987, you were identified through urinalysis testing to be a drug user. You were notified that you would be placed on a drug urinalysis surveillance regimen program, and tested on a regular basis not to exceed a period of 180 days from your entry into active duty. You were further notified, a second drug incident would result in immediate processing for administrative separation. On 4 January 1988, you were briefed on the Navy's policy for drug and alcohol abuse. On 15 February 1988, you received non-judicial punishment (NJP) for wrongful use of marijuana, the offense occurring during the following period: 2 January 1988 through 2 February 1988. On 16 February 1988, you were again counseled regarding the wrongful use of a controlled substance. On 18 March 1988, you were counseled regarding the wrongful use of a controlled substance on a naval vessel. The date of the offense reflects 16 March 1988. On 25 March 1988, you received NJP for wrongful use of marijuana. On this occasion the drug related offense is noted to have occurred from 13 February 1988 to 13 March 1988. On 3 April 1988, the discharge authority approved and directed your

discharge with an other than honorable (OTH) character of service by reason of misconduct due to drug abuse. On 13 April 1988, 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 character of service to general. You contend you were tested on multiple occasions during a short period of time without regard to the center for disease control (CDC) determination that states it takes 30 days for marijuana to leave the blood stream. You also provide the Board with evidence, which reflects your post service conduct and accomplishments. The Board commends your positive post service record; notwithstanding, the Board noted you were specifically informed of the Navy's policy regarding drug and alcohol abuse as well as the consequences of continued drug related misconduct. Based on your NJP record, the Board determined your second drug related offense occurred over 30 days following your initial offense and offense dates do not overlap. Consequently, the Board concluded you used marijuana on multiple occasions while on active duty despite multiple warnings of the potential consequences. As a result, the Board determined you failed to provide sufficient evidence to mitigate your drug related misconduct and did not find evidence of an error or injustice that warrants upgrading your 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,

3/11/2022

[REDACTED]
Executive Director
[REDACTED]