



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: 0934-22
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 9 March 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 duty on 26 January 1981. On 13 May 1981, you received non-judicial punishment (NJP) for two specifications of failure to obey a lawful written order. Additionally, you were issued an administrative remarks (Page 13) counseling, advising you that future involvement with civilian or military authorities could lead to your administrative discharge from the naval service. On 13 May 1982, you received your second NJP for failure to obey a lawful order or regulation. On 31 August 1983, you received your third NJP for wrongful use of marijuana.

On 6 September 1983, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. You were advised of, and waived, your procedural rights to consult with and to be represented by military counsel, and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA)

recommending your administrative discharge from the Navy with an other than honorable (OTH) characterization of service. The SA approved the recommendation and directed your administrative discharge from the Navy with an OTH characterization of service by reason of misconduct due to drug abuse and on 6 October 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 character of service, and your contention that your OTH discharge was unwarranted because there were other "hull techs" who tested positive for THC, and you were breathing in the same air that they were breathing. You further state that if you had told on anyone, you would have received a blanket party.

For purposes of clemency consideration, the Board noted you did not provide a statement or supporting documentation describing post-service accomplishments, or advocacy letters. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your three NJPs, one of which involved the wrongful use of a controlled substance in light of the "zero tolerance" drug policy, outweighed any mitigating factors. In regard to your contention, the Board did not find evidence of an error or injustice concerning your administrative discharge. Even under the liberal consideration standard, the Board found your misconduct warranted 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,

3/23/2022

