

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

> Docket No: 1159-22 8222-98 Ref: Signature Date

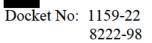


Dear Petitioner:

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 you did not file your application in a timely manner, the statute of limitations was waived in the interests of justice. A three-member panel of the Board, sitting in executive session, considered your application on 18 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 this 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 and entered a period of active duty in the Navy on 22 June 1965. From 2 April 1966 to 13 May 1967, you received nonjudicial punishment (NJP) on four occasions for unauthorized absences (UA) ranging from seven hours to a day and a half in violation of Article 86, Uniform Code of Military Justice (UCMJ). On 10 January 1968, you were convicted by special court martial (SPCM) for three specifications of UA for a 16 day, 3 day, and 21 day period in violation of Article 86, UCMJ. You were also convicted of missing movement and breaking restriction in violation of Articles 87 and 134, UCMJ. On 21 March 1968, you were interviewed by the Naval Investigative Service and admitted to the use of illegal/restricted drugs on several occasions while you were on liberty. On 1 October 1968, you were notified of administrative separation processing by reason of unlawful use of barbiturates and dangerous drugs. You waived your procedural rights and, on 1 November 1968, were discharged with an other than honorable characterization of service. This Board previously denied your request for an upgrade on 18 May 1999.



You contend you were not a partier and did not drink alcohol prior to enlisting in the Navy but that changed when you received more freedom. You further assert that you started drinking with friends and the problem was that you did not know when to stop, and consequently, made poor decisions. You contend you thought you were discharged for missing ship's movement but found out years ago you were discharged for unlawful drug use. You admitted that you tried some pills a shipmate gave you but you did not like the way it made your heart race. You further state you told your petty officer about the drug use and were told to stay away from drugs or you would be reported. You contend that was the extent of your experience with drugs.

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 noted above and desire to upgrade your discharge. In addition, the Board considered the advocacy letters you provided with your application. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your four NJPs, SPCM, and admissions regarding the illegal use of restricted drugs, outweighed these mitigating factors. In making this finding, the Board determined that the mitigation evidence you provided was insufficient to overcome the seriousness of your misconduct. 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.

