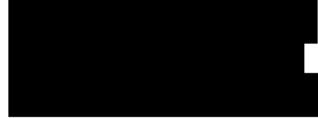




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 1391-22
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 16 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 service on 4 September 1996. On 5 September 1996, you were counseled regarding your fraudulent enlistment due to the failure to document an unborn child. On 11 May 1998, you underwent a substance abuse evaluation and you were determined not to be psychologically or physiologically dependent to marijuana. On 12 May 1998, you received non-judicial punishment (NJP) for wrongful use of marijuana. On 20 May 1998, you were notified of the initiation of administrative separation proceedings by reason of misconduct drug abuse, at which point, you waived your right to consult with counsel, and review of your case by an administrative discharge board (ADB). On 27 May 1998, your commanding officer recommended your discharge from naval service with an other than honorable (OTH) character of service. On 29 May 1998, the separation authority concurred with your commanding officer's recommendation. On 25 June 1998, you were discharged with an other than honorable (OTH) character of service by reason of misconduct due to drug abuse.

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 characterization of service to honorable so that you will be eligible to apply for the Hazelwood Act grant on behalf of your son. You contend, in part, you committed one offense by testing positive for marijuana use and that your remaining service was honorable. Additionally, you contend the Department of Veteran's Affairs (DVA) determined your service was under honorable conditions for DVA purposes. Please note decisions reached by the DVA to determine if former service members rate certain DVA benefits do not affect previous discharge decisions made by the Navy. The criteria used by the DVA in determining whether a former service member is eligible for benefits are different than that used by the Navy when determining a member's discharge characterization. In reviewing your record, the Board determined you failed to provide sufficient evidence to support adjustment to your characterization of service. The Board found no evidence in the record to warrant a change to your discharge given your drug related misconduct, which resulted in your NJP. The Board concluded these potentially mitigating factors were insufficient to warrant relief. In making this finding, the Board noted that you failed to submit any advocacy letters and considered the seriousness of your misconduct. 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,

[REDACTED]
3/30/2022
[REDACTED]
[REDACTED]