



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: 1743-22
Ref: Signature Date

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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 4 April 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).

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 honorably completed two periods of active duty from 18 February 1975 to 30 August 1984. You reenlisted and commenced a third period of naval service on 31 August 1984. On 23 April 1986, you received nonjudicial punishment (NJP) for wrongfully possessing and using marijuana. On 13 May 1986, you were notified of your pending administrative separation due to drug abuse, at which time you elected your right to consult with counsel and have your case heard at an administrative board (ADB). On 4 June 1986, an evaluation letter from the Counseling and Assistance Center determined that you were not drug or

alcohol dependent. It further captured you admitted to marijuana use and frequent abuse of alcohol and also recommended you be administratively separated. Subsequently, the ADB you elected was held and found, by a vote of 3-0, you committed misconduct and, by a vote of 3-0, recommended you be discharged with an other than honorable (OTH) characterization of service by reason of drug abuse. On 26 June 1986, your commanding officer (CO) recommended to the discharge authority that you be separated with an OTH for drug abuse (use). On 24 July 1986, the discharge authority agreed with the findings of the ADB and your CO's recommendation, and on 1 August 1986, you were so discharged.

The Board carefully reviewed your application and 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 and your contentions that, (1) you received your discharge as the result of a positive urinalysis for marijuana for which you were reduced in rank to E-5 and served 30 days of restriction, (2) you were court-martialed and received an OTH, and (3) previous to this incident your career was exemplary as evidenced by your two periods of honorable service, two Good Conduct Medals, several commendations, a nomination for Sailor of the Quarter, and other accomplishments. The Board commends you for having accomplished a clean and sober lifestyle since 7 December 1987. However, based upon this review, the Board determined that your misconduct, as evidenced by an NJP which involved wrongful use of a controlled substance, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your drug possession and abuse along with the negative impact your behavior likely had on the good order and discipline within your command. Additionally, the Board noted there is no precedent within this Board's review, for minimizing "one incident" of misconduct based on a prior history of good performance. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. Further, the Board noted you received two Certificates of Release or Discharge from Active Duty (DD 214s) for your previous periods of honorable service that further minimizes any arguments for injustice based on prior good performance. 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,

4/25/2022

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Executive Director

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