



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: 2301-22
Ref: Signature Date

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Dear █:

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 22 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).

You completed an Honorable period of active service in the Navy from 22 December 1986 to 20 December 1990. On 21 December 1990, after reenlisting, you began a second period of active service. On 22 May 1991, you were counseled regarding your poor performance. On 14 June 1993, you received non-judicial punishment (NJP) for wrongful use of a controlled substance. On 22 June 1993, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse. You elected to waive your right to consult with counsel and waived your right for review of your case by an administrative discharge board (ADB). On 3 July 1993, 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 July 1993, your commanding officer recommended the same. On 31 July 1993, 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. You contend

the Department of Veterans Affairs (DVA) determined your service to be honorable for DVA benefits and you provided correspondence from the DVA to support your contention. You request the Board to adjust your Certification of Release or Discharge from Active Duty (DD Form 214) so that you may receive DVA benefits online and in person.

Please note decisions reached by the Department of Veterans Affairs (VA) to determine if former service members rate certain VA benefits do not affect previous discharge decisions made by the Navy. The criteria used by the VA 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.

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your conduct constituted a significant departure from that expected of a Sailor. As a result, the Board did not find evidence to support a finding of an error, injustice, or clemency that warrants upgrading your characterization of service. Therefore, the Board determined the assigned OTH characterization remains appropriate despite the VA's determination. 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,

5/5/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]