

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

> Docket No: 2404-22 Ref: Signature Date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 threemember panel of the Board, sitting in executive session, considered your application on 25 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, 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 were granted a waiver due to prior civilian drug use involvement. On 30 March 1976, you began a period of active duty. On 9 June 1978, you received nonjudicial punishment (NJP) for possession of marijuana and identified as a drug abuser. On 7 July 1978, you were disqualified from the Personnel Reliability Program while assigned to Torpedo "A" school. On 21 August 1978, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse. On 27 September 1978, you elected to waive all your procedural rights. On 12 October 1978, your commanding officer recommended a General (Under Honorable Conditions) (GEN) discharge characterization of service by reason of misconduct due to drug abuse. On 25 October 1978, the discharge authority approved and ordered a GEN discharge characterization of service by reason of misconduct due to drug abuse. On 3 November 1978, you were 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 contention that you were young and incapable of realizing how detrimental was the impact of your actions, that you did not understood the ramifications of your actions and the importance of finishing a career in the Navy, and that you were able to get married and raise a son who was honorably discharged from service. 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the fact your misconduct was drug related and that you entered the Navy with a drug waiver. The Board noted you did not submit any documentation or advocacy letters to be considered. As a result, the Board concluded the negative aspects of your service outweighed the positive and continue to warrant a GEN characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded 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 the 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.

	5/12/2022
Executive Director	

Sincerely,