



**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: 2897-22  
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 9 May 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 U.S. Navy (USN) and began a period of active duty on 20 June 1988. You were subsequently briefed on the Navy's drug and alcohol abuse policy. On 27 November 1991, a letter from Navy Drug Screening Laboratory to your Commanding Officer (CO) in your official military personnel file (OMPF) documented your positive urine test for marijuana. On 19 December 1991, you received nonjudicial punishment (NJP) for wrongful use of marijuana. On 2 January 1992, a drug and alcohol abuse screening documents you were not a drug abuser or drug dependent and further recommended you be discharged. On 31 January 1992, your chronological record of medical care captures you denied any other substance abuse except

tobacco, also finding you were not a drug abuser or drug dependent and recommended you attend a Level I treatment program. On 5 February 1992, you were notified of your CO's intent to recommend to the separation authority that you be discharged by reason of misconduct due to your drug abuse, at which time you elected to consult with military counsel and present your case to an administrative discharge board. On 18 February 1992, a memorandum from your command drug and alcohol program advisor documents you were screened by a medical officer for possible drug dependence and diagnosed as non-dependent. It further documents you attended command directed weekly narcotics anonymous meetings. He further recommended you be retained in the Navy. On 20 February 1992, an administrative discharge board found you committed misconduct and recommended you be separated with a General (Under Honorable Conditions) (GEN) characterization of service. On 5 March 1992, your CO agreed with the administrative discharge board and recommended you be discharged with a GEN. On 25 March 1992, the separation authority directed you be discharged with a GEN by reason of misconduct due to drug abuse (use) and, on 2 April 1992, 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 discharge. The Board also considered your contentions that, (1) "at discharge they said apply for Honorable status and I may use my G.I. Bill and benefits to help pay for school, barbershop, rent, etc," (2) "I finished barber school and I have a barbershop," (3) "I ask that you please consider my upgrade. The Lt Commander said that I apply and I will receive my upgrade." For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

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 seriousness of your misconduct and the fact it included a drug offense. Further, the Board considered the fact you were already provided a measure of mitigation when you were assigned a GEN characterization of service for an offense that typically resulted in an Other Than Honorable characterization. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating VA benefits, or enhancing educational or employment opportunities. As a result, the Board concluded significant negative aspects of your service outweighs the positive aspects 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 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,

6/9/2022

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Executive Director

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