



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

█
Docket No: 2943-22

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 three-member panel of the Board, sitting in executive session, considered your application on 13 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 began a period of active duty on 14 May 1985. On 1 May 1986, you received and signed a statement concerning illegal use, possession, or sale of unauthorized drugs and alcohol. You were advised that failure to take corrective action could result in administrative separation. On 16 April 1987, you received nonjudicial punishment (NJP) for wrongful use of a controlled substance-marijuana. On 30 May 1987, you were counseled for misconduct due to drug abuse. You were advised that failure to take corrective action could result in administrative separation. On 15 December 1987, you received a second NJP for wrongfully carrying alcoholic liquors while on board a ship. On 28 September 1988, you

received a third NJP for a period of unauthorized absence from your appointed place of duty and wrongful use of a controlled substance-marijuana. On 3 October 1988, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense, misconduct due to pattern of misconduct, and misconduct due to drug abuse. On the same date, you elected to waive all your procedural rights. On 11 October 1988, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to commission of a serious offense, misconduct due to pattern of misconduct, and misconduct due to drug abuse. On 18 October 1988, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to pattern of misconduct. On 21 October 1988, 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 desire for an upgrade of your characterization of service and contentions that you maintained a satisfactory performance rating, that you were deemed to be promoted, that you volunteered and were often requested to performed additional duties, and that you did not deserved the type of discharge you received. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. Ultimately, the Board determined your conduct showed a complete disregard for military authority and regulations. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH 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.

Sincerely,

6/9/2022

█
Executive Director
█