



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: 3005-22

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 June 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).

On 12 August 1982, you enlisted in the Navy with a waiver for preservice drug use. On 27 October 1982, you began a period of active duty service. On 1 November 1984, you received nonjudicial punishment (NJP) for wrongful possession of a hashish pipe and one gram of hashish. On 3 November 1984, you were counseled for drug abuse. You were advised that failure to take corrective action could result in administrative separation. On 14 November 1984, you received a second NJP for wrongful receipt of a case of stolen soda. On the same date, you were counseled for receiving stolen goods. You were advised that failure to take corrective action could result in administrative separation. On 25 July 1985, you were arrested by civil authorities and charged with possession of methamphetamines. You were sentenced to a one year probation with charges dismissed following the completion of your probation. On 23 January 1986, you received a third NJP for wrongful possession of methamphetamines. On 29 January 1986, you were notified of

the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and misconduct due to drug abuse. On the same date, you requested an administrative discharge board (ADB) hearing. On 30 January 1986, a medical officer diagnosed you as being a drug abuser and recommended that you were administratively separated from service. On 19 May 1986, the ADB voted (3) to (0) that you committed misconduct due to pattern of misconduct and misconduct due to drug abuse. On 11 June 1986, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct and misconduct due to drug abuse. On 2 July 1986, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to frequent involvement. On 8 August 1986, 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 a discharge upgrade and contentions that your discharge was attributed to minor situations in which most of them you had nothing to do with, that you were at the wrong place at the wrong time and were arrested just for watching, and that your civil case was dismissed and it should not be counted against you. 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 and civilian conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included multiple drug offenses. Additionally, the Board considered the negative impact your conduct likely had on the good order and discipline of your command along with the prejudicial nature of your civilian conviction had on the Navy. 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,

7/4/2022

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Executive Director

Signed by: █