



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: 3868-22

Ref: Signature date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 27 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).

You enlisted in the Navy at age 17, and began a period of active duty on 27 October 1980. On 21 May 1981, you received nonjudicial punishment (NJP) for possessing a controlled substance-marijuana. On 10 January 1983, you were seen by a medical officer, at which point, you admitted using marijuana prior and during active duty service. Further, the medical officer determined that there was no need for drug rehabilitation. On 28 June 1984, you received a second NJP for use of marijuana. As a result, on 2 July 1984, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to waive all your procedural rights. On 3 July 1984, a medical officer recommended Level I Drug and Alcohol Rehabilitation without any knowledge of your second drug related offense. On 7 July 1984, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 16 July 1984, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to drug abuse. On 18 July 1984, 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 you joined the Navy at age 16, that you choose to self-medicate with marijuana as a result of life changes, that you were able to finished your Bachelor and Master Degree's and obtained your private pilot license, that your discharge was unjust since you were not given the opportunity to rehabilitate, and that you were experiencing significant personal or family problems at the time. 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 that included two separate drug offenses. Additionally, the Board did not find evidence to substantiate your assertion that you entered the Navy at age 16. Finally, the Board did not find your mitigation arguments persuasive and concluded there was no requirement to send you to rehabilitation treatment in lieu of discharging you for wrongful use of controlled substances. 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. While the Board commended your post-discharge accomplishments, 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,

7/14/2022

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Executive Director

Signed by █