



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

█  
Docket No: 4114-22

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 18 July 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.

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 Navy and began a period of active duty on 26 June 1990. From a period beginning on 2 August 1995 to 26 September 1995, you began three periods of unauthorized absence (UA) totaling five days, 15 hours and 30 minutes. On 28 November 1995, you received nonjudicial punishment (NJP) for UA. On 20 December 1995, you received a second NJP for two instances of wrongful possession of a controlled substance-marijuana. On the same date, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, commission of a serious offense, and minor disciplinary actions. Subsequently, you elected to waive all your procedural rights. On 21 December 1995, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service. On 27 December 1995, the discharge authority approved an OTH discharge

characterization of service by reason of misconduct due to commission of a serious offense. On 5 January 1996, 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 contention that your service, while assigned to the 7th Fleet, was honorable, with valor, and exhibited zealous performance. 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 two drug offenses. Further, the Board considered the likely negative impact your misconduct had on the good order and discipline at your command. 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.

Regarding your request for awards, the Board determined you have not exhausted all administrative remedies prior to your appeal to this agency. Please forward your request to the Navy Personnel Command (PERS 312A), 5720 Integrity Drive, Millington, TN 38053-3120, for adjudication.

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,

8/2/2022

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Deputy Director  
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