



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: 4180-22
Ref: Signature Date



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 27 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, 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).

You entered active duty with the Navy on 26 June 1969. On 2 August 1972, you requested a drug abuse exemption after admitting to using illegal drugs while on active duty. Your exemption was granted and you were exempted from disciplinary action or administrative separation. On 7 August 1972, you received a medical examination from the Medical Officer. The Medical Officer noted you admitted to using Speed, Marijuana, Acid, Mescaline, and Barbiturates while on active duty and prior to enlisting into the Navy. As a result, the Medical Officer determined you were drug dependent and recommended you for rehabilitation. That same day, you were admitted to Naval Hospital in █ and diagnosed with Amphetamine/LSD intoxication. On 2 October 1972, you went into an unauthorized absence (UA) status and remained for 13 days. On 16 October 1972, you were discharged from the Hospital. On 25 October 1972, you received non-judicial punishment (NJP) for being in UA status for 13 days.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After electing to waive your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to drug abuse, with an General (Under Honorable Conditions) characterization of service. The SA approved the recommendation and, on 10 November 1972, 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 in addition to your contention that you never used marijuana while in the Navy. 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 and drug abuse, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct that included extensive drug use. The Board was not persuaded by your denial of marijuana use based on the medical evidence in your record. Further, the Board noted you admitted to abusing multiple other drugs while on active duty and were diagnosed with a LSD and Amphetamine addiction by medical personnel. As a result, the Board concluded significant negative aspects of your active service outweigh the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization of service. The Board felt you were fortunate to receive a General (Under Honorable Conditions) based on the level of drug abuse you committed while on active duty. Therefore, 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,

8/8/2022

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