



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: 4348-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 24 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, 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 enlisted in the Navy and completed and began a period of active service on 6 May 1999. Your record reflects you provided an admission of preservice marijuana use. On 15 November 1999, you received non-judicial punishment (NJP) for wrongful use of/possession of marijuana. On 11 December 1999, you were counseled for sleeping during work hours and reading unauthorized material on watch. On 8 January 2000, you hit a parked car and fled the scene of the accident. You were issued a citation for driving under the influence, fleeing the scene of an accident, and inattentive driving. On 14 January 2000, you received NJP for wrongful consumption of alcohol while under the age of 21 and reckless drunk driving. As a result, on 14 January 2000, you were notified of the initiation of administrative separation proceedings as a result of misconduct due to drug abuse and commission of a serious offense. You waived your right to consult with counsel and a hearing before an administrative discharge board (ADB). On 25 January 2000, your commanding officer recommended your separation from naval service with an Other Than Honorable (OTH) characterization of service. On 26 January 2000, the separation authority approved and directed your discharge from naval service with an OTH

characterization by reason of misconduct due to drug abuse and, on 31 January 2000, 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 character of service and change your reentry code. In addition, the Board considered your contentions that you were told you would not be discharged if you wrote a statement following your positive result for marijuana use, that your commanding officer, legal officer, and executive officer lied to you, and that your service prior to your misconduct was honorable. 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. The Board also noted you were counseled regarding your repeated misconduct and given an opportunity to correct your behavior. Finally, the Board was not persuaded by your arguments involving your chain of command lying to you about your post-drug abuse retention since the record clearly demonstrates that you committed additional serious offenses after your admitted wrongful drug use. 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. Based on this finding, the Board found no basis to change your reentry code. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service, changing your reentry code or granting clemency in your case. 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,

7/15/2022

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Executive Director

Signed by █