



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

█  
Docket No: 4447-22  
Ref: Signature Date

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Dear █

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 25 August 1971. On 27 August 1971, you admitted to using drugs during training while on active duty. On 22 September 1971, you made a written statement admitting to using drugs prior to enlistment and failing to inform your recruiter. As a result, you were notified of pending administrative separation action by reason of fraudulent enlistment. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of fraudulent enlistment with a General (Under Honorable Conditions) characterization of service. The SA approved the recommendation and, on 20 October 1971, you were so discharged with a General (Under Honorable Conditions) characterization of service.

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 and request for Department of Veterans Affairs (VA) benefits. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing your 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 failure to disclose your pre-service drug use outweighed these mitigating factors. When weighing your fraudulent actions against the brevity of your overall active duty service, the Board concluded that the preponderance of the evidence supports a finding that significant negative aspects of your service outweighed the positive aspects and continue to warrant a General (Under Honorable Conditions) 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 desire for VA benefits, whether or not you are eligible for benefits is a matter under the cognizance of the VA, and you should contact the nearest office of the VA concerning your right to apply for benefits. If you have been denied benefits, you should appeal that denial under procedures established by the VA. As a result, the Board did not consider this aspect of your request since it was a matter outside its statutory authority.

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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Executive Director

Signed by: █