



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: 4866-22
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).

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 service on 25 May 1982. Prior to your entry onto active duty, you were counseled on the Navy's drug abuse policy. On 12 August 1982, you were counseled and notified of your positive indication of drug involvement. You were notified further drug involvement would be grounds for the initiation of administrative separation proceedings. From the period beginning on 20 August 1982 to 16 November 1982, you received NJP on three occasions for the following offenses: willfully disobeying an order, willfully selling liberty pass to various recruits, unlawful assault, and two specifications of unauthorized absence (UA). Subsequently, you were counseled on three occasions for misconduct. From the period beginning on 24 November 1982 to 26 May 1983, you received

NJP on three occasions for the following offenses: two specifications of a violation of a general article, UA, provoking speech and gestures, assault, and disorderly conducts. On 2 August 1983, you received NJP for wrong use and possession of marijuana. On 17 August 1983, you were notified of the initiation of administrative separation proceedings as a result of your misconduct due to the pattern of misconduct and drug abuse. You elected your right to consult with counsel, and waived a hearing of your case before an administrative discharge board (ADB). Your commanding officer recommended your separation from naval service with a General (Under Honorable Conditions) character of service. Subsequently, you went on two brief period of UA totaling 2 hours and 40 minutes. You went on another period of UA from 1 November 1983 to 4 November 1983. On 10 November 1983, the separation authority approved and directed your separation with an Other Than Honorable (OTH) characterization of service. On 27 January 1992, you were discharged an OTH by reason of misconduct due to drug abuse.

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 characterization of service to General (Under Honorable Conditions) and contentions that you have been successful in a post-discharge career in the oil industry and towing. For purposes of clemency consideration, the Board noted you provided supporting documentation describing post-service accomplishments but no 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 likely negative impact it had on the good order and discipline of your unit. Further, the Board took into consideration that you were warned repeatedly on the consequences of your continued misconduct and that you went UA on several occasions after you were notified of administrative separation processing. This led the Board to conclude you showed a complete disregard for military authority and regulations. 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 commends 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 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,

8/15/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]