



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: 5987-22
Ref: Signature Date

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Dear █:

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 you did not file your application in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 4 November 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, after admitting to pre-service marijuana use and arrests for skipping school and shoplifting, and began a period of active duty on 1 November 1988. You served for two years without incident until receiving nonjudicial punishment (NJP), on 19 December 1990, for a violation of Article 86, unauthorized absence (UA). On 11 January 1991, you were notified of consideration for administrative discharge by reason of misconduct due to drug abuse. You acknowledged this notice and waived your right to counsel and to an administrative hearing. You received a second NJP, on 18 January 1991, for a violation of Article 112a due to your wrongful use of meth-amphetamines. While the request for your discharge under Other Than Honorable (OTH) conditions was routing for final decision, you received an evaluation for drug dependency which noted that you had self-disclosed methamphetamine abuse following your UA. This evaluation recommended that you receive Level III residential substance abuse treatment; however, you indicated at that time that you were not motivated for rehabilitation and would not go. Your separation was approved and you were discharged with an OTH on 25 March 1991.

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 your contentions that you were not given counsel or rehabilitation prior to your discharge, but believe that you deserve a chance for an “Honorable” characterization. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough 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 determined that illegal drug use by a Sailor is contrary to Navy core values and policy, renders such Sailors unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Further, the Board observed that you were afforded the opportunity for rehabilitation during the evaluation prior to your discharge but declined those services. Finally, the Board considered the likely negative effect your conduct had on the good order and discipline of the 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. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. 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 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 is attached 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,

11/18/2022

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Executive Director

Signed by: █