



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

█  
Docket No. 0986-23

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 April 2023. 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 this 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 commenced a period of active duty on 17 October 1968. Between 20 November 1969 and 10 June 1970, you received non-judicial punishment on three occasions for the following offenses: four specifications of unauthorized absence (UA), and missing ship's movement. On 10 June 1970, you were found to be in possession of marijuana. On 25 June 1970, you were referred for medical evaluation as a result of your drug use. Subsequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point you waived your right to counsel, and a hearing of your case before an administrative discharge board (ADB). Your commanding officer recommended your separation from naval service with an Undesirable character of service. However, on 28 September 1970, you were discharged with a General (Under Honorable Conditions) character of service by reason of 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 character of service and your

contentions that you served honorably, you were close to completing your obligated active service, and you chose to be separated early in order not to be discharged overseas. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by three NJP's and marijuana possession, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it involved a drug offense. The Board determined that illegal drug use is contrary to Navy values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow service members. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. Despite your contentions that an injustice exists because of your early discharge, the Board determined that you received a large measure of clemency when you were assigned a General (Under Honorable Conditions) character of service. As documented by your commanding officer's recommendation, your misconduct was sufficiently serious to merit an Undesirable (Other Than Honorable) characterization of service. As a result, the Board found that significant negative aspects of your service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) 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 granting you the relief you requested or granting relief 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 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,

█

Executive Director

Signed by: █