



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

█  
Docket No. 6709-23  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 26 January 2024, has carefully examined your current request. 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 Kurta Memo and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You previously applied to this Board and were denied relief on 22 June 2022. Prior to applying to this Board, you applied to the Naval Discharge Review Board (NDRB). After determining your discharge was proper as issued, the NDRB notified you of their decision to deny your request on 27 July 1984. The facts of your case remain substantially unchanged.

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 your actions did not warrant the severity of your discharge, you were permitted to continue serving after your SPCM conviction, and you deployed to assist in the evacuation of █ prior to being processed for administrative discharge for the same misconduct for which you were initially not adjudged a punitive discharge. You acknowledge that your UA period was not a wise choice but state that you were young, naïve, and scared because you had never been in trouble before. You describe the drug trafficking offense as having been approached by someone asking if you knew where he could obtain marijuana, but the person who had asked you

was apparently a naval criminal investigator. You also point out that you voluntarily returned to face the charges, and you believe that the drug trafficking charge was dismissed without conviction on that count. For purposes of clemency and equity consideration, the Board noted you provided advocacy letters that describe post-service accomplishments.

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 involved a drug offense. The Board determined that drug trafficking by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, contrary to your assertion, the Board noted that your record clearly reflects a conviction for drug trafficking, which formed the basis for your administrative separation processing.

Although the Board noted that you were not adjudged a punitive discharge and that the results of your initial hearing before an administrative separation board resulted in a recommended discharge under honorable conditions for the sole basis of drug trafficking, the Board found no error in your re-notification and corrected processing for the additional basis of commission of a serious offense based on your extended period of UA. The Board further observed that you could have requested a second hearing before an administrative discharge board but chose to waive that right. Further, the final recommendation for your administrative discharge under Other Than Honorable (OTH) conditions was reviewed and approved by competent authority.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

2/26/2024

[REDACTED]