



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. 0029-24
Ref: Signature Date



Dear Petitioner:

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 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 12 January 2024. 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, 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 began a period of active duty on 10 January 1986. Upon your enlistment, you acknowledged and signed the Navy Alcohol and Drug Abuse Certificate. Further, your record indicated that you failed to disclose your previous involvement with civil authorities. On 17 March 1986, you tested positive to use of two controlled substances-cocaine and PCP. On 31 March 1986, you were evaluated by a Drug and Alcohol counselor and admitted the use of both controlled substances. On 17 April 1986, you received nonjudicial punishment (NJP) for wrongful use of two controlled substances. On 21 April 1986, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse. On 28 April 1986, you decided to exercise your right to an Administrative Discharge Board (ADB) hearing. On 1 August 1986, the ADB voted (3) to (0) that you committed misconduct due to drug abuse. Further, the ADB recommended that you were administrative separated from the Navy with an Other Than Honorable (OTH) discharge characterization by reason of misconduct due to drug abuse. On 19 September 1986, your commanding officer recommended and OTH

discharge characterization by reason of misconduct due to drug abuse. On 9 November 1986, the discharge authority approved and ordered an OTH discharge characterization by reason of misconduct due to drug abuse. On 21 November 1986, you were so discharged.

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 for a discharge upgrade and contentions that the Department of Veterans Affairs (VA) determined your discharge characterization is Honorable for VA purposes. For purposes of clemency and equity consideration, the Board noted you submitted the VA decision document from the VA.

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 NJP, 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 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, the Board considered the likely negative effect your conduct had on the good order and discipline of your unit. Finally, the Board noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. Such VA eligibility determinations, disability ratings, and/or discharge classifications are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations. 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. 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 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 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,

2/1/2024

