



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. 1025-24
Ref: Signature Date

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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 14 February 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, 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 entered active duty with the Navy on 28 March 1974. Between 4 April 1974 and 18 December 1974, you received three non-judicial punishments (NJP) for two specifications of unauthorized absence (UA) totaling 3 hours and 30 minutes and possession of marijuana. On 1 July 1975 and 9 October 1975, you received NJP for five specifications of UA totaling approximately 30 days and absence from appointed place of duty. Subsequently, you were notified of pending administrative separation action by reason of convenience of the government (COG) due to unsuitability (Defective Attitude). After waiving your rights, your CO forwarded your package to the separation authority (SA) recommending your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. On 29 October 1975, you requested early return to the civilian

community. Ultimately, the SA approved the CO's recommendation and directed a GEN characterization of service by reason of COG due to unsuitability.

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 contentions that you were young and immature, made bad decisions, and have been running your own financial service company for 30 years. For the 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 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. The Board noted that illegal drug use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board noted that your record clearly reflected your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. Finally, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to commit additional misconduct. Ultimately, the Board determined you were fortunate to receive a GEN discharge and it was more likely than not that your command already provided you a measure of clemency based on your age and lack of maturity at the time. As a result, the Board concluded significant negative aspects of your active service outweigh the positive aspects and continues to warrant a GEN characterization of service. While the Board carefully considered your assertion of good post-discharge character, 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,

2/28/2024

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