



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

█
Docket No. 1131-24
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 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).

You enlisted in the Navy and commenced active duty on 19 June 1975. After two previous periods of Honorable Service, you immediately reenlisted and commenced a third period of active duty on 16 March 1983.

On 11 July 1985, you received non-judicial punishment for wrongful use of a marijuana. On 15 July 1985, a Drug and Alcohol Report recommended you attend the Navy's alcohol and drug safety action program and receive counseling from the drug and alcohol program advisor. Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. On 13 October 1985, you received a letter of substandard service from the Petty Officer Quality Control Board, which determined you failed to maintain the behavior required to become a petty officer. On 4 December 1985, a medical evaluation determined you

were not dependent on alcohol or drugs. After electing to waive your rights, your commanding officer forwarded your package to the separation authority recommending your discharge by reason of misconduct due to drug abuse with an other than honorable characterization of service. The separation authority approved the commanding officer's recommendation, and on 20 December 1985, 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 to upgrade your discharge and contentions that you served in Vietnam and the laws regarding marijuana use has changed, you were unaware of veterans' benefits, and the military is now less strict than when you served. 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 non-judicial punishment, 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 marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Finally, the Board also determined that your record clearly reflected your willful misconduct and demonstrated you were unfit for further service. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an other than honorable 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 your request does not merit relief.

In reviewing your record, the Board believes that you may be eligible for veterans' benefits which accrued during your prior periods of Honorable service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (VA). In this regard, you should contact the nearest VA office concerning your rights, specifically, whether you are eligible for benefits based on your prior period of honorable service.

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,

3/1/2024



Executive Director

Signed by: █