



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. 1506-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 29 March 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 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 began a period of active service on 27 June 1988. You were counseled regarding the Navy's policy on drug and alcohol abuse on 30 June 1988. On 24 January 1989, you signed and acknowledged a statement of understanding regarding the Navy's policy on drug abuse.

On 24 October 1989, you underwent a medical evaluation following your self referral for illicit use of amphetamines, and due to suicidal ideations. You were referred for continued treatment and a drug and alcohol abuse report notes your poor potential for further service in the Navy.

On 10 January 1990, you received non-judicial punishment (NJP) for three specifications of unauthorized absence, insubordinate conduct, and willfully disobeying a lawful order from a superior Petty Officer. As a result of the foregoing, on the same day, you were notified of the initiation of administrative separation proceedings by reason misconduct due to drug use, and the commission of a serious offense. You waived your right to consult with counsel, and your right

to a hearing of your case before an administrative discharge board. Your commanding officer recommended your separation from naval service with an Other Than Honorable (OTH) character of service. The separation authority approved and directed your discharge with an OTH character of service by reason of misconduct due to the commission of a serious offense. On 17 March 1990, 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 characterization and contentions that you require Department of Veteran's Affairs (DVA) medical benefits and have had positive post service conduct. 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 your drug abuse and NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Further, the Board noted you were given opportunities to correct your conduct deficiencies and chose to continue to commit misconduct. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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 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,

4/16/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]