



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. 2383-24
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 6 May 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).

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 commissioned in the United States Navy commenced a period of active duty on 18 August 1978. You served honorably and were released from active duty at the completion of your required period of service on 18 August 1982. You transferred to the Navy Selected Reserves on 19 August 1982.

On 16 May 1996, you tested positive on a random urinalysis for THC (marijuana). On 18 July 1996, you were notified of the initiation of administrative show cause proceedings related to your misconduct. After consulting with qualified counsel, you elected your right to present matters in your defense at a Board of Inquiry (BOI). On 11 February 1997, the BOI considered your case and recommended you for separation from the naval service with a General (Under Honorable Conditions) (GEN) discharge. On 7 April 1997, the Chief of Naval Personnel found that the BOI's findings and recommendations were in compliance with Navy policy, and recommended approval of your separation due to misconduct, commission of a serious offense. On 16 April 1997, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) approved your separation from the Navy with GEN characterization of service.

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: (1) your desire to upgrade your discharge characterization, (2) your assertion that you had many years of Honorable service to your country and that one mistake should not reflect your overall service, and (3) your contention that the stress of your job led to your use of marijuana. For purposes of clemency and equity consideration, the Board noted that you did not provide evidence related to your post-service accomplishments or character 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 positive urinalysis and BOI, outweighed these mitigating factors. The Board considered the seriousness of your misconduct and the fact that it involved a drug offense. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that illegal substance abuse is contrary to the Navy core values and policy, renders such officer unfit for duty, and poses an unnecessary risk to the safety of fellow service members and patients. Additionally, such misconduct places an undue burden on your chain of command and negatively impacts mission accomplishment. The Board determined that GEN characterization is appropriate when significant negative aspects of an officer's conduct outweighs the positive aspects, which they found to be accurate in your case. As a nurse, especially a pediatric nurse, you are placed in a position of power and charged with a great deal of responsibility. Drug use is not only unprofessional; it calls into question your medical competency and jeopardizes your credentials. Although you claim that this was a limited instance triggered by stress, the Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. For these reasons, the Board concluded that a GEN remains the appropriate characterization of service in your case.

Therefore, 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,

5/30/2024

