



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

██████████
Docket No. 4794-24
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 10 June 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 enlisted in the Navy and commenced active duty on 25 April 1984. On 27 March 1986, you received non-judicial punishment (NJP) for wrongful use of marijuana. Additionally, you were issued an administrative remarks counseling page 13 concerning "numerous violations of the Uniform Code of Military Justice, i.e. wrongful use of marijuana." You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 27 March 1987, you received non-judicial punishment (NJP) for unauthorized absence (UA).

On 6 November 1987, you received a second NJP for UA from your unit from on or about 2 October 1987 until on or about 21 October 1987, and for missing ship's movement on 7 and 16 October 1987.

On 4 February 1988, you again received NJP for UA from 4 January 1988 until 2 February 1988, for UA from your appointed place of duty, and for missing ship's movement on 15 January 1988.

On 17 August 1988, you were found guilty at Summary Court-Martial (SCM) for violation of UCMJ Article 85, for desertion from 12 April 1988 until 6 July 1988. You were sentenced to confinement for 30 days.

On 27 September 1988, Commander, Naval Military Personnel Command, directed your discharge for misconduct, specifying a separation code of "HKA," and a reentry code of "RE-4."

On 4 October 1988, you commenced another period of UA, which was ended by your surrender on 12 October 1988.

Unfortunately, additional documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated on 14 October 1988 with an "Under Other Than Honorable Conditions (OTH)" characterization of service, your narrative reason for separation is "Misconduct – Pattern of Misconduct," your reentry code is "RE-4," and your separation code is "HKA," which corresponds to misconduct – pattern of misconduct.

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 change your discharge characterization of service and your contentions that you now realize how much of a mistake you made, you were listening to the wrong people, you never wanted out of the Navy, you loved the Navy and still do, you made bad choices, and when you were sent to legal hold your belongings, including a Rolex watch and engagement ring, were taken from you and not returned. 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 NJPs and a SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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. The Board also considered the likely negative impact your repeated misconduct,

