



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. 6015-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 8 July 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, 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 duty on 30 October 1975. During a period commencing on 23 August 1977 to 9 August 1978, you received nonjudicial punishment (NJP) in two occasions for an instance of peace of peace and dereliction of duty. On 25 August 1979, you were honorably discharged by reason of immediate reenlistment. On 26 October 1979, you began a second period of active duty. Between 21 January 1983 to 25 February 1983, you received NJP in three occasions for disobeying a lawful order, a period of unauthorized absence (UA) from appointed place of duty, and wrongful use of marijuana. Between 5 August 1983 to 12 August 1983, you received NJP on two occasions for wrongful use of marijuana and dereliction of duty. On 19 August 1983, you were convicted by summary court martial (SCM) for sleeping while on watch. You were sentenced to reduction to the inferior grade of E-1, confinement at hard labor, and forfeiture of pay. On 20 November 1983, you were discharged with a General (Under Honorable Conditions) (GEN) discharge characterization of service by reason of expiration of enlistment.

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 for a discharge upgrade and contentions that: (a) your service records and evaluations up until the time you were assigned to the █
█ (█) were above average to excellent, (b) your last two years were marred with prejudice and discrimination, (c) you were harassed and targeted almost from the beginning of your tour onboard of that ship, and (d) shortly after reporting onboard, you were informed that certain individuals were out to get you. For purposes of clemency 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 and SCM, 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. In addition, the Board noted your misconduct included drug offenses. 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. Further, the Board noted that there is no evidence in your record, and you submitted none, to support your contentions that you were treated unfairly. Therefore, the Board was not persuaded by your arguments and determined you were fortunate to be allowed to complete your term of enlistment instead of being processed based on your record of misconduct. Additionally, the Board further noted that your second enlistment was appropriately characterized by your record during your second period of active duty and your previous enlistment period has no bearing on a subsequent enlistment. Finally, the Board considered that you were provided multiple opportunities to correct your conduct issues but chose to continue to commit misconduct.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN 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 the 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,

7/30/2024

