



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

██████████
Docket No. 8276-24
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 25 October 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 commenced a period of active duty on 3 February 1981. On 5 March 1982, you received non-judicial punishment (NJP) for unauthorized absence (UA). On 23 March 1982, you were convicted at a Special Court Martial (SPCM) of violation a lawful regulation by possessing and selling 4.86 grams of marijuana and were sentenced to confinement, forfeitures, and a reduction in paygrade. Subsequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, and you waived your procedural rights. However, on 21 June 1982, you commenced a period of UA that ended on 5 November 1982. Consequently, you were convicted by a second SPCM and sentenced to a Bad Conduct Discharge (BCD), confinement, and forfeiture of pay. After completion of your appellate review, on 4 November 1983, 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 characterization of service and your contentions that you were young, made wrong decisions due to the influence of drugs, and have lived a productive life. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and SPCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offenses. The Board determined that drug possessing, and distribution are 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. Further, the Board considered the likely negative effect your misconduct had on the good order and discipline of your command. Additionally, the Board considered that you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct, which ultimately led to your BCD. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. 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,

11/25/2024

