



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

█  
Docket No: 3134-21  
Ref: Signature Date

█  
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 26 July 2021. 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).

On 12 September 1979, you disclosed prior involved in multiple drug related incidents on DD Form 1966/5. Said charges were dismissed and a pre-service drug abuse waiver was not required.

You enlisted in the U.S. Navy (USN) and began a period of active duty on 24 September 1979. In your letter you contend you served your first enlistment honorably. During this enlistment you received non-judicial punishment (NJP) on 04 December 1980 for possessing and using marijuana. On 12 December 1980, you were issued a counseling warning acknowledging your deficiencies but retaining you in the USN. Additionally, this entry stated further misconduct may result not only in disciplinary action but in processing for administrative discharge which could result in punitive or an undesirable discharge. In December 1980, your command forwarded message traffic to Commander, Navy Military Personnel Command (COMNAVMILPERSCOM), regarding a disposition recommendation in your case. Within this message the retention counseling warning was documented as being entered into your service record. This message

also documented you were not drug dependent and no rehabilitation was required. Lastly, this message recommended you be retained in service. Subsequent to this, on 12 February 1982, you received another counseling entry where you acknowledge having received counseling concerning your drug related offense and that one more drug involvement, military or civilian, could result in you being discharged. On 30 August 1983, you were discharged from the USN with an honorable characterization of service. You reenlisted for three (3) additional years on 31 August 1983. On this date you received a counseling warning documenting you received training on Uniform Code of Military Justice instructions.

In December 1985, you tested positive for marijuana. On 02 January 1986, you received NJP for wrongful use and possession of marijuana. On 22 January 1986, a drug and alcohol abuse report message was sent to COMNAVMILPERSCOM, documenting the punishment awarded at NJP and stating you exhibited potential for further service. In March 1986, you tested positive for cocaine.

On 14 March 1986, as a result of your repeated misconduct, you were notified of pending administrative separation by reason of misconduct, drug abuse, at which time, you consulted with counsel and waived your right to have your case heard at an administrative discharge board (ADB). Further, you were notified of the commanding officer's intent to recommend to the discharge authority that you be discharged with an other than honorable characterization of service for misconduct, drug abuse. In your commanding officer's recommendation he noted you performed your military duties in an excellent manner, but were unwilling to eliminate your drug use. He added that you have been disciplined and counseled on the drug abuse policy and again produced a positive urinalysis. Lastly, he noted you could not conform your actions with Navy policy and have no potential for future service. On 05 May 1986, the discharge authority concurred with your Commanding Officer's recommendation and directed that you be discharged by reason of misconduct, drug abuse. On 14 May 1986, you were discharged with an other than honorable 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, your desire to upgrade your discharge and your contentions that you served your first enlistment honorably in spite of receiving an NJP for possessing and using marijuana. You assert you were intent on continuing your military career but surrounded yourself with the wrong people and had an error in judgement. The Board noted your remorse for your actions and your post-service accomplishments. The Board further noted your advocacy letter to be considered for clemency purposes. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct outweighed these mitigating factors. 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, \_\_\_\_\_

8/5/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]