



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

█  
Docket No: 6366-21  
Ref: Signature Date

█  
█  
█  
Dear █:

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 1 November 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, 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 U.S. Navy and began a period of active duty on 13 January 1988. On 18 January 1988, you were briefed on the Navy's drug and alcohol abuse policy. On 1 September 1988, you received nonjudicial punishment (NJP) for failing to go to your appointed place of duty and for wrongful use of cocaine. On 7 September 1988, you were notified of your pending administrative separation due to drug abuse, at which time, you waived your right to consult with counsel and to an administrative discharge board. Further, you were notified of the commanding officer's (CO) intent to recommend to the separation authority that you be discharged with an other than honorable (OTH) characterization of service. On 8 September 1988, a chronological

record of medical care confirmed drug abuse and further documented you were not psychologically dependent on drugs/alcohol, determining no further counseling/treatment was required. In November 1988, the separation authority agreed with your CO, and directed your discharge by reason of misconduct for drug abuse. On 1 November 1988, you were discharged with an OTH.

You contend the Navy erroneously discharged you despite the existence of your Diabetes condition. You argue that your condition was unfitting for continued naval service and you should have been referred to the Disability Evaluation system. The Board disagreed with this argument and concluded you were appropriately processed and discharged for your misconduct despite the existence of your alleged disability condition. In making this finding, the Board relied on the SECNAVINST 1850.4 series that directs disability processing to be superseded in cases where a service member is undergoing disciplinary or administrative discharge for misconduct. Therefore, based on your documented misconduct that resulted in discharge, the Board concluded you were ineligible for disability processing regardless of the severity of your diabetes condition.

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 contentions noted above. Additionally, the Board noted you did not submit advocacy letters or post-service documents 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, as evidenced by your drug use, 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,

11/8/2021

[REDACTED]

[REDACTED]

Executive Director

Signed by: [REDACTED]