



**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: 6440-21

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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 6 December 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 Navy and commenced a period of active duty on 7 August 1986. On 21 December 1987, you received nonjudicial punishment (NJP) for using cocaine. On 15 January 1988, you received nonjudicial punishment for missing an extra duty muster. On 3 February 1988, you were evaluated for the purposes of counseling, rehabilitation, and a determination of drug dependence by the Counseling and Assistance Center (CAAC). The CAAC reported that you admitted to using cocaine while at a party, and finding that you were susceptible to using drugs again. On 12 February 1988, you were notified of the initiation of administrative

separation proceedings, and your rights in connection therewith. You waived your right to an administrative board. On 4 May 1988, your commanding officer recommended that you be discharged with an other than honorable characterization of service. On 28 May 1988, the discharge authority directed that you be discharged with an other than honorable characterization of service, and on 8 June 1988, you were so discharged.

In 2014, you filed a petition with this Board in which you contended that you made a “childish mistake” while you were in the Navy, and that you were trying to provide for your family and obtain a position to help other veterans. On 16 October 2015, this Board denied your petition, concluding the mitigating factor that you provided were not sufficient to warrant relief.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. In your petition, you contend that you did not willingly ingest cocaine. Rather, you state that you attended a party on the night of your urinalysis, that you were coerced into ingesting a white substance that turned out to be cocaine, and that you had never before taken an illegal substance, as you were not a drug user and wanted to have a prosperous career in the Navy. You also provided, by way of post-service clemency, several letters of reference and recommendation, which the Board reviewed carefully.

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. After careful review of your contentions, the Board commended you for your post-service activities and employment, and acknowledged the several letters of reference and recommendation. However, the Board did not believe that you provided sufficient matter to warrant post-service clemency relief under the Wilkie Memo. With respect to your assertion that you innocently ingested the cocaine, the Board did not find that to be worthy of belief. Given the totality of the circumstances, and in light of your serious misconduct as evidenced by your nonjudicial punishment for using cocaine, 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,

12/25/2021

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Executive Director

Signed by █