



**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: 6452-21  
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 15 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).

You enlisted in the U.S. Navy (USN) and began a period of active duty on 7 October 1987. On 20 August 1988, you received your first nonjudicial punishment (NJP) for assault, communicating a threat and drunk and disorderly conduct. Pursuant to your NJP you received an administrative counseling documenting you were being retained in the USN but warning you that further discrepancies may result in disciplinary action and in processing for administrative discharge. On 19 October 1988, you were in an unauthorized absence (UA) status from 0700 to 1600. On 31 October 1988, an administrative remark documented that you received a civil conviction for driving under the influence. You were sentenced to pay a fine of \$250.00 and to be jailed for 60 days. Your driving privileges were suspended for six (6) months and you were ordered to complete the Alcohol Safety Action Program (ASAP). Your fine and jail sentence was suspended until the completion of ASAP. Subsequently, you had two additional UAs; the first

totaling one day and the second totaling 10 days. On 6 January 1989, you received a second NJP for wrongful use of marijuana. On 8 January 1989, you were notified of your pending administrative separation due to commission of a serious military offense (COSO) and drug abuse, at which time, you waived your right to consult with counsel and to an administrative discharge board. On 10 January 1989, you submitted a statement regarding your pending administrative separation admitting to having committed a great error by using marijuana in the month of December 1988. You also requested a general (under honorable conditions) (GEN) characterization of service vice an other than honorable (OTH) characterization of service. On 13 January 1989, you were notified of the commanding officer's (CO) intent to recommend to the separation authority that you be discharged with an OTH for COSO and drug abuse. On 20 January 1989 you received a third NJP for being UA from restricted muster on three separate occasions, and on 8 February 1989, you received a fourth NJP for wrongful use of marijuana. In February 1989, the separation authority directed you be discharged with an OTH for drug abuse (use) and on 22 February 1989, you were discharged.

You contend your discharge was unfair in that a fellow Sailor who was known for using drugs provided names of others who were using drugs, and that this disclosure resulted in a command urinalysis test for which you tested positive for marijuana. You also contend that your Executive Officer (XO) offered to send you to a rehabilitation program and transfer you to another command if you would also provide the names of others using drugs. You assert you could not ruin other people's lives to save yourself and did not provide the information you allege was requested by your XO. 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. The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations. Additionally, the Board noted, aside from your statement, 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 uses and four (4) NJPs, 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, \_\_\_\_\_

12/4/2021

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Executive Director

Signed by: █