



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

■  
Docket No: 0408-22  
Ref: Signature Date



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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 16 February 2022. 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 reenlisted into the Navy on 9 January 1987. The Board noted you completed two prior enlistments from 22 June 1979 to 13 October 1983 and 14 October 1983 to 8 January 1987, with Honorable characterizations of service. On 25 May 1988, you were convicted by a special court-martial (SPCM) of wrongful use of cocaine. You were sentenced to confinement, forfeiture of pay, and reduction in rank.

On 7 July 1988, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. You were advised of, and exercised, your procedural right to consult with and to be represented by military counsel, and to present your case to an administrative discharge board (ADB). Prior to the convening of your ADB, on 15 July 1988, you were medically evaluated and it was determined that you were not alcohol dependent or drug dependent. On 12 August 1988, an ADB was convened and determined that the preponderance of the evidence supported a finding of misconduct due to drug

abuse and recommended that you be separated from the Navy with an other than honorable (OTH) characterization of service. Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an OTH characterization of service. The SA approved the recommendation and directed your administrative discharge from the Navy with an OTH characterization of service by reason of misconduct due to drug abuse and, on 3 October 1988, 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 discharge character of service. The Board also considered your previous periods of honorable service and statement that you take full responsibility for what happened during that time of your life that led to your OTH discharge. The Navy gave you a great opportunity during that time of your life, actually saving you from a very bad and abusive childhood. You further state that you have been a model citizen for the past 33-years and have held the same job since your discharge.

For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SPCM conviction for the wrongful use of a controlled substance, outweighed these mitigating factors. Additionally, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or sufficient evidence to warrant clemency. In making this finding, the Board noted that you possess two prior Honorable discharges that may be used for Department of Veterans Affairs benefits purposes. In addition, the Board considered that you only served approximately 22 months in your final enlistment prior to your discharge for drug abuse. Therefore, when weighing the evidence in your case, the Board found that your conduct was a significant departure from that expected from a Sailor and continues to warrant the OTH characterization of service. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In regards to your previous periods of honorable service, the Board noted that you may be eligible for veteran's benefits. You should contact the nearest office of the Department of Veterans Affairs concerning your rights, specifically, whether or not you are eligible for benefits based on these periods of service.

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,

3/2/2022



Executive Director

Signed by: █