



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



Docket No: 0430-22  
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 14 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 enlisted in the U.S. Navy and began a period of active duty on 28 July 1976, ending with an honorable characterization of service on 29 May 1983. On 30 May 1983, you reenlisted for a period of four (4) years and commenced a second enlistment period. On 22 May 1984, you received your first nonjudicial punishment (NJP) of this enlistment for wrongfully using cocaine. On 3 July 1984, you acknowledged receiving an adverse evaluation for the period of 3 July 1983 to 22 May 1984 and chose not to make a statement concerning the adverse evaluation. On 23 August 1984, as a result of your NJP conviction, you were identified as a drug abuser. On 27 August 1984, you were issued a retention counseling/warning retaining you in the Navy but advising you that further incident of drug abuse may result not only in disciplinary action, but in processing for administrative discharge and will include consideration of all misconduct. On 7 September 1984, despite the aforementioned misconduct, a substance abuse report documented you had successfully completed Level II treatment at a Counseling and Assistance Center (CAAC), were involved in an aftercare program, and your potential for future naval service was good. On 27 February 1985 and 5 October 1985, you acknowledged receiving two (2) additional

adverse evaluation reports and on 23 January 1987, you received a second NJP during this enlistment for being in an unauthorized absence (UA) status from your appointed place of duty, altering an official document and malingering. You were issued another retention counseling/warning. On 23 January 1987, you received a third NJP for wrongfully threatening a fellow service member. Documentation specific to your separation notification, election of rights, and commanding officer's recommendation found in your official military personnel file (OMPF) were illegible. However, on 27 May 1987, the discharge authority directed you be separated with an other than honorable (OTH) characterization of service for Pattern of Misconduct (POM). Unfortunately, you commenced a period of UA on 29 May 1987, halting your separation processing. As such, your command requested to discharge you in absentia. This request was approved and on 17 June 1987, you were so discharged.

In your application you contend you were under emotional duress, your grandfather who raised you was on his death bed, and you were experiencing marital issues due to being separated. You shared after 30 years you and your wife have reconciled and you feel you were given a second chance and would like another chance for your Navy life to change for you, your wife, and your offspring.

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 post-service accomplishments or advocacy letters 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 three (3) NJPs, and 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 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,

3/4/2022

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Executive Director

Signed by █