



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

█  
Docket No: 650-22  
Ref: Signature Date

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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 23 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 entered active duty with the Navy on 24 April 1984. On 14 November 1985, you received non-judicial punishment (NJP) for wrongful use of marijuana and unauthorized absence (UA) totaling 37 days. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offence/drug abuse. On 6 December 1985, you received an additional NJP for five specifications of failure to go to appointed place of duty. On 20 November 1985, you waived your rights and your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to commission of a serious offence/drug abuse, with other than honorable (OTH) characterization of service. The SA approved the recommendation, and on 6 January 1986, 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 and contention that you made a mistake and request forgiveness. In addition, the Board considered the letter of recommendation provided with your application.

The Board noted that the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. The Board also noted that the record clearly shows that you were notified that you were being recommended for separation due to commission of a serious offence/drug abuse and you waived your right to present your case to an administrative board (ADB).

Based upon this review, the Board found no error with your discharge and concluded the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that the seriousness of your misconduct, as evidenced by your two NJPs, outweighed these mitigating factors. The Board noted that, in addition to your drug abuse, you continued to commit misconduct while in a restricted status. As a result, when weighing the seriousness of your misconduct against your active duty service, the Board concluded that the preponderance of the evidence supports a finding that your conduct was a significant departure from that expected from a Sailor and warrants an Other than Honorable characterization of service. 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,

3/2/2022



Executive Director

Signed by: 