



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

■  
Docket No: 1483-22  
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 25 March 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 Marine Corps and began a period of active service on 10 January 2000. On 25 May 2001, you submitted a voluntary statement admitting to the wrongful use of a controlled substance-cocaine. On 10 July 2001, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse. On 13 July 2001, you received non-judicial punishment (NJP) for violation of a lawful order and wrongful use of cocaine. On 17 July 2001, you submitted a statement to the separation authority requesting to be retained in the Marine Corps. On the same date, you waived your right to consult with counsel and your right for review of your case by an administrative discharge board (ADB). On 9 August 2001, your commanding officer recommended your separation from the Marine Corps. On 17 August 2001, the discharge authority approved and directed your discharge with an other than honorable (OTH) character of service by reason of misconduct due to drug abuse. On 31 August, 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 character of service and adjust your reentry code. You contend, your discharge was inequitable and unjust. You refer to BCNR Docket NR2001004281 as a matter of equity. You contend that the Petitioner in the referenced BCNR case received an honorable discharge. The Board reviews each case based on its individual merits. Please note your characterization encompasses a review of your entire record, weighing significant positive and negative aspects of your overall service record. Further, the Board took into consideration your admission to the drug related misconduct that formed the basis for your administrative separation and OTH characterization of service. As a result, the Board did not find evidence of an error or injustice in your service record. In making this finding, the Board reviewed all evidence you provided with your application and determined that you failed to provide sufficient evidence as a matter of clemency to mitigate your drug related misconduct. In reviewing your misconduct, they concluded that it was serious and showed a complete disregard of military authority and regulations. As a result, the Board found that your conduct constituted a significant departure from that expected of a Marine and continues to warrant the OTH characterization of service and RE-4 reentry code. 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,

4/14/2022

[REDACTED]  
Executive Director  
[REDACTED]