



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

[REDACTED]  
Docket No: 1652-22  
Ref: Signature Date

[REDACTED]

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 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 completed an honorable period of active service in the Navy from 1 August 1980 to 30 July 1984. During your first enlistment, you received non-judicial punishment on four occasions and were counseled on two occasion regarding your misconduct. Additionally, you completed a four-week seminar on drug and alcohol awareness after being identified as being involved in illegal use of drugs. You reenlisted on 31 July 1984. On 23 December 1986, you received NJP for wrongful use of marijuana, and wrongful possession of cocaine and marijuana. On 14 June 1987, you were discharged with an other than honorable (OTH) character of service by reason of misconduct due to drug abuse.

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. You contend you received an OTH because you were with someone who committed a criminal act, that you were told your discharge would be upgraded automatically after a certain period, and that you believe your second enlistment should be upgraded because you did not do anything wrong. The

Board noted you were appropriately advised of the negative consequences of continued drug use during your first enlistment. Your record does not contain all of the documents pertinent to your administrative separation processing. However, whenever official records are incomplete or unavailable, unless there is substantial credible evidence to rebut the presumption, the Board can presume a regularity in the conduct of the government affairs. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Ultimately, the Board reviewed your statements but concluded these potentially mitigating factors were insufficient to warrant relief. In making this finding, the Board considered your NJP for wrongful use of cocaine and wrongful possession of cocaine and marijuana. In the Board's opinion, these drug related offenses were too serious to be offset your statements alone. As a result, the Board did not find evidence of an error or injustice that warrants upgrading your 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,

4/3/2022  
[REDACTED]

Executive Director  
[REDACTED]