



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

█  
Docket No: 1852-22  
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 30 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).

After a previous period of honorable service, you reenlisted in the Navy on 13 December 1988. During the period from 8 August 1989 to 1 February 1990, you received three non-judicial punishments (NJP) for unauthorized absence (UA), insubordination toward a superior petty officer, failure to obey a lawful order, and wrongful use of cocaine. During this period, a medical evaluation determined you were not drug dependent and recommended you for separation. Subsequently, on 2 February 1990, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct/drug abuse. After waiving your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to a pattern of misconduct/drug abuse with an other than honorable (OTH) characterization of service. The SA approved the recommendation, and on 22 February 1990, 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 contentions that you were young and immature, addicted to drugs and afraid to ask for help, have been drug free for 14 years, teach bible study, and volunteer to assist others facing additions.

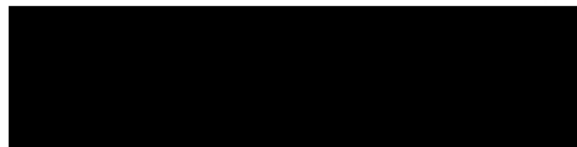
The Board noted that your record clearly documented your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. The Board also noted, contrary to your assertion, that a medical officer determined that you were not drug dependent at the time of your misconduct. Lastly, the Board commended your post service conduct but concluded that it does not excuse your conduct while enlisted in the Navy or the basis for your discharge.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that the seriousness of your misconduct, as evidenced by your three NJPs that included drug abuse, outweighed these mitigating factors. In making this finding, the Board noted that your misconduct also included two instances of orders violations in addition to insubordination. The type of conduct that shows a complete disregard for military authority and regulations. 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 merits 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, \_\_\_\_\_

4/5/2022



Executive Director

