



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

█  
Docket No: 3487-22  
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 13 June 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).

During your enlistment processing you answered "no" to ever taking narcotic, substance, stimulant, or tranquilizer drugs except as prescribed by a licensed physician. You subsequently enlisted in the U.S. Navy (USN) and commenced a period of active duty from 29 September 1977 to 23 May 1985, which ended with an Honorable (HON) characterization of service. On 24 May 1985, you reenlisted in the USN and commenced a second period of active duty. On 8 November 1986, you received nonjudicial punishment (NJP) for wrongful use of cocaine. On 10 November 1986, you were notified of your pending administrative separation by reason of misconduct due to drug abuse, at which time you elected your right to consult with military counsel and have your case heard before an administrative discharge board (ADB). On 14 November 1986, a Drug and Alcohol Abuse Report documented your admission of a history of drug abuse and addiction. You were deemed to have no potential for future Naval service and recommended for separation via a VA (veterans affairs) hospital. Subsequently, an ADB was held, found you committed misconduct, and recommended you be separated with an Other Than Honorable (OTH) character

of service. On 2 January 1987, your Commanding Officer (CO) recommended to the separation authority that you be discharged with an OTH characterization of service. A Naval Message, dated 31 January 1987, documents a medical officers' evaluation of 2 December 1986. It determined that you were psychologically dependent on cocaine but not physiologically dependent. It further confirmed you as a drug and alcohol abuser who requires in-patient rehabilitation, adding that you desired rehabilitation. On 19 February 1987, the separation authority agreed with the ADB and your CO's recommendation, directing you be discharged with an OTH by reason for drug abuse. Administrative remarks dated 26 February 1987, document you elected drug and alcohol treatment at a VA hospital. On 8 April 1987, you received a second NJP for the wrongful use and possession of cocaine prior to your discharge on 30 April 1987.

The Board carefully reviewed your application and 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 your contentions that: (1) when you tested positive for cocaine you were a alcohol/drug addict, (2) you knew it was wrong and have been sober and clean since December 1992, (3) On your birthday in "10-76" you were drunk and someone gave you a 'snort', (4) you do not fully blame anyone but yourself for your behavior but there was no understanding of alcoholism or drug addiction as diseases in the 1980s military, (5) you did receive one good conduct medal and were really a good Sailor and Sonar Technician, (6) you were ready to die for your country if need be, (7) you have no arrest record and have been a law abiding citizen, and (8) you are 63 years old. The Board noted you did not submit advocacy letters or post-service documents 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included two separate drug offenses. While the Board considered the evidence that you were likely addicted to drugs and alcohol, they determined this did not excuse your behavior. Further, the Board noted that you admitted to preservice drug use in your application to this Board; a fact you withheld during your enlistment processing. This led the Board to concluded, it was more likely than not, that you fraudulently entered the Navy. Based on this finding, the Board felt it was inappropriate to mitigate your misconduct that had a nexus to your fraudulent behavior. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. While the Board commends your post-discharge sobriety, after applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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, \_\_\_\_\_

7/5/2022

[REDACTED]

Executive Director

[REDACTED]