



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

██████████  
Docket No. 7490-22

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 6 March 2023. 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 disclosed previous drug use and were granted an enlistment waiver. You enlisted in the Navy and began a period of active duty on 1 April 1982. On 3 June 1982, you received your first nonjudicial punishment (NJP) for dereliction in the performance of your duties. You were issued administrative remarks documenting the aforementioned deficiency and advising you that any further misconduct may result in disciplinary action and processing for administrative separation. On 9 September 1982, you received a second NJP for a period of unauthorized absence lasting less than 24 hours, and for the wrongful use of marijuana. You were again issued administrative remarks retaining you in the Navy and advising you that any further misconduct may result in disciplinary action or in the processing for administrative separation. On 10 February 1983, you received additional counseling retaining you in the Navy and documenting your deficiencies; specifically, drug abuse and a pattern of misconduct. On 31 July 1984, you were found guilty at a special court-martial (SPCM) of the larceny in the amount of \$██████████ from a fellow Sailor. You were sentenced to

confinement at hard labor for 60 days, to forfeit \$██████████ pay per month for one month, to be reduced in rank to E-1, and to a Bad Conduct Discharge (BCD). On 15 July 1985, 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 characterization of service and your contentions that: (1) you were a victim of physical and mental abuse from your husband, (2) you stole the money to escape your abuser's torture, and (3) your ex-husband abused other women, was court-martialed, and discharged from the military. For purposes of clemency and equity consideration, the Board noted you provided documentation describing post-service accomplishments but no advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it included a drug offense. The Board determined illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted, marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board noted you provided no evidence to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a BCD. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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 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,

3/21/2023

██  
Executive Director  
██