



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

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Docket No. 8460-22  
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 January 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).

You enlisted in the Navy and began a period of active service on 23 October 1985. Prior to your commencement of active service, you signed and acknowledged a statement of understanding regarding drug and alcohol abuse in the Navy. You were counseled on 29 October 1985 and notified of the Navy's drug and alcohol abuse policy. On 3 June 1986, you received non-judicial punishment (NJP) for two specifications of unauthorized absence (UA), and wrongful use of cocaine. On the same day, you were counseled regarding your misconduct and notified further deficiencies in your conduct could result in the initiation of administrative separation proceedings. Your record reflects you were retained in the Navy despite your misconduct.

On 9 March 1987, you received your second NJP for UA from your appointed place of duty, and wrongful use of cocaine. As a result, you were notified of administrative separation processing for drug abuse. On 11 March 1987, you elected your right to consult with counsel, and waived a hearing of your case before an administrative discharge board (ADB). You were determined not

to be physically, nor psychologically dependent on cocaine, and you were recommended for administrative separation proceedings. The separation authority approved and directed your discharge with an Other Than Honorable (OTH) character of service by reason of misconduct drug abuse. Subsequently, on 26 March 1987, 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 contentions that you received no education from the military on the damages of drug use, you were told you would be considered for help for your illness, and you are trying to live a productive life. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included two separated drug offenses. In addition, the Board noted you were informed of the Navy's policy regarding drug and alcohol abuse and given a second chance after your first drug offense. This led the Board to conclude you showed a complete disregard for military authority and regulations. Finally, the Board noted you provided no evidence in support of your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. 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. 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,

2/16/2023

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Executive Director

Signed by: █