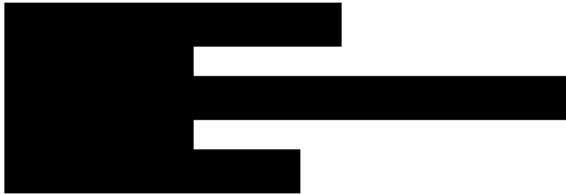




**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No: 9019-22  
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 16 December 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty on 20 March 2000. Upon entry to the service you were granted a waiver for your illegal use of a controlled substance while in the Delayed Entry Program.

You received non-judicial punishment (NJP), on 2 March 2004, for unauthorized absence (UA) from your appointed place of duty. You were subsequently issued a counseling warning for your deficiencies in your performance and or conduct. On 8 October 2004, you received your second

NJP for UA from your appointed place of duty and three specifications of dereliction of duty. You received your third NJP, on 14 January 2005, for being UA from your appointed place of duty, two specifications of dereliction of duty, and wrongful use of marijuana and cocaine.

Subsequently, you were notified for separation for Pattern of Misconduct and Drug Abuse. You waived your right to consult with counsel and your right to an administrative board. The Commanding Officer recommended you be discharged with an Other Than Honorable (OTH) characterization and forwarded your case to the Separation Authority (SA). On 1 February 2005, the SA approved the recommendation and directed your discharge. Subsequently, you were discharged on 10 February 2005 with an OTH for 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 request to have your first four years of service be annotated as a previous period of continuous honorable service and have your narrative reason for separation changed to convenience of the government. You argue that your enlistment was extended at the convenience of the government. For purposes of clemency consideration, the Board noted you provided supporting documentation to include your DD Form 214, enlistment contract, evaluations, a certificate, and an article.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board found no basis to annotate your first four years of service as Honorable since there is no evidence you reenlisted at that time. Therefore, the Board determined your entire period of active duty consisted of a single enlistment period. Further, the Board also found no basis to change your narrative reason for separation to convenience of the government based on your record of misconduct involving drug abuse. Therefore, the Board found that you were appropriately processed for pattern of misconduct and drug abuse, and that your narrative reason for separation is supported by the evidence and remains appropriate. 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 changing your narrative reason for separation, annotating a period of continuous honorable service, 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,

1/12/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]