



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

[REDACTED]  
Docket No. 1304-23  
Ref: Signature Date

[REDACTED]  
Dear [REDACTED]

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 3 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).

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 Navy and began a period of active service on 31 January 2001. You were convicted at a summary court martial (SCM) on 25 September 2001 for five specifications of unauthorized absence (UA), four specifications of failure to go to appointed place of duty, missing ship's movement, disrespect in language to a First Class Petty Officer, disobeying a lawful general order, destruction of government property, and larceny of government property. You subsequently began a period of UA on 14 December 2001. On 7 February 2002, you again missed ship's movement. While on UA, you were convicted by civil authorities possession of cocaine and sentenced to four years of confinement.

On 11 January 2006, you returned from UA. On the same day, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to the commission of a serious offense, at which point, you waived your right to consult with counsel. Your commanding officer recommended your separation from the Navy with an Other Than Honorable (OTH) character of service. The Separation Authority approved the recommendation, on 17 January 2006, and you were so discharged.

You previously applied to the Naval Discharge Review Board (NDRB) with request to adjust your record. The NDRB denied your request to upgrade your character of service, on 2 December 2010, after concluding your discharge was proper as issued.

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, at the time of your UA, your mother was dying of cancer, and you were unable to cope with the stress which led you to fall into a deep depression. For purposes of clemency and equity consideration, the Board noted you did not provide 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 SCM, civil conviction, and significant period of UA, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. Finally, 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 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,

3/23/2023

