



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

■  
Docket No. 5640-23

Ref: Signature Date

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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 submitted within the statute of limitations, the Board found it in the interest of justice to review your request. A three-member panel of the Board, sitting in executive session, considered your application on 13 November 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 this 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 United States Navy and commenced a period of active duty on 18 July 1981. On your enlistment application, you acknowledged pre-service drug use.

On 20 January 1982, you received non-judicial punishment (NJP) for violating Uniform Code of Military Justice Article 92, for failure to obey an order by possessing marijuana. You were formally counseled due to your misconduct and did not appeal your NJP. On 18 March 1983, you were again formally counseled for violation of Article 91, for disobeying an order and disrespecting a senior non-commissioned officer by refusing to deliver a radio to the V-4 office. On 9 August 1983, you received your second NJP for violating UCMJ Article 86, for a five-day period of unauthorized absence (UA). You were formally counseled due to your misconduct and did not appeal your NJP. On 5 July 1984, you received your third NJP for violating UCMJ Article 92, for parking on Pier Bravo. On 1 November 1984, you received your fourth and final NJP for

violating UCMJ Article 86, for UA from your appointed place of duty. You did not appeal either on these NJPs.

On 9 November 1984, you were notified that you were being processed for an administrative discharge by reason of misconduct due to “Frequent Involvement of a Discreditable Nature w/ Military Authorities.” You elected your right to consult with qualified counsel and waived your right to present your case at an administrative separation board. Prior to your separation, you underwent a physical examination in which you denied any mental health conditions or symptoms. On 29 November 1984, you were discharged from the Navy due to your misconduct and assigned an “Other Than Honorable” (OTH) characterization of service and an “RE- 4” reentry code.

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: (1) your desire to upgrade your discharge characterization, (2) your desire to receive services from the Department of Veterans Affairs (VA), and (3) your explanation that you only wanted to go to your first child’s birth. Additionally, the Board noted you checked the “PTSD” box on your application but chose not to respond to the Board’s 29 September 2023 letter requesting supporting evidence for your claim. For purposes of clemency and equity consideration, the Board noted that you did not provide advocacy letters or documentation of post-service accomplishments.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, 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 that it involved a drug offense and two periods of UA. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that illegal drug use is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates. A characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a service member. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade.

Lastly, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities. 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.



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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,

11/18/2023

