



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

█  
Docket No. 6236-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 5 February 2024. 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 on 9 March 1972 and completed a period of Honorable service. On 11 December 1984 you reenlisted and commenced another period of active duty. On 13 November 1986, you received nonjudicial punishment (NJP) for the wrongful use of marijuana. Subsequently, you tested positive for cocaine, on 1 April 1987, and were referred to the Counseling and Assistance Center (CAAC). As part of your CAAC evaluation, you disclosed that your drug use began when you were 13 years old and you used cocaine, marijuana, and hard liquor on a regular basis. You were found to be psychologically dependent upon alcohol and drugs and it was recommended you be placed on a command assisted urinalysis program, receive counseling from your command DAPA (Drug and Alcohol Program Advisor), be administratively documented, and be considered for administrative separation.

On 1 May 1987 and 18 May 1987, you tested positive for cocaine and were subsequently notified of your pending administrative separation processing by reason of drug abuse (use) and rehabilitation failure, at which time you elected your right to consult with counsel and waived your right to have your case heard before an administrative discharge board. On 11 June 1987, you received a second NJP for the wrongful use of cocaine. A drug and alcohol abuse report documents your further incidents of drug usage while in an aftercare status. On 28 June 1987, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of Misconduct – Drug Abuse (Use) and, on 22 July 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 your contentions that you would like your discharge upgraded to become a member of the American Legion. The Board noted you checked the “Other Metal Health,” box on your application but chose not to respond to the Board’s request for evidence in support of your claim. The Board further noted you did not provide documentation for clemency and equity consideration.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined 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 included multiple drug offenses. The Board determined illegal drug involvement 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. Additionally, the Board considered the likely negative effect your conduct had on the good order and discipline of your command. 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 of that expected of a service member and continues to warrant an OTH characterization of service. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrant 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 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 is attached 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, \_\_\_\_\_

2/15/2024

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Executive Director

Signed by: █