



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

█  
Docket No. 6244-23  
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 20 September 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 entered active duty with the Navy on 23 October 1989. On 31 January 1990, you received non-judicial punishment (NJP) for disobeying a lawful order and having alcohol beverages on board ship. On 8 June 1990 and 13 July 1990, you received NJP for failure to obey a lawful order, disorderly conduct, use and possession alcoholic beverages, drunkenness and incapacitated for the performance of duty. On 19 June 1992, you successfully completed the Navy Alcohol and Drug Action Program. On 2 December 1992, you received an additional NJP for wrongful use of marijuana. On 16 December 1992, you received a drug and alcohol screening, which determined you were alcohol dependent and recommended you received treatment from the Department of Veterans Affairs (VA) after discharge. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offence/drug abuse. After electing to waive your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to commission of a serious offense/drug abuse with an Other Than Honorable (OTH) characterization

of service. The SA approved the CO's recommendation and, on 17 February 1993, 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 discharge and your contentions that your punishment was extreme, you were young and made a mistake, you never received help or rehabilitation, you been married for 30 years and have three children, and have been employed at the same job for over 30 years and alcohol and drug free with no criminal record. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but failed to 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. Specifically, the Board determined your misconduct as evidenced by your NJPs, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. The Board determined that illegal drug use 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. The Board noted that illegal drug use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also considered the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board noted that your record clearly reflected your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. The Board also noted that your punishment was a direct result of your actions and was not persuaded by the mitigating assertion that your punishment was too extreme. Finally, the Board noted that, contrary to your contention, you received rehabilitation treatment that was completed on 19 June 1992. However, after completing the Navy Alcohol and Drug Safety Program, you tested positive for marijuana use. Therefore, the Board was not persuaded by your arguments. 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. While the Board considered your assertions of post-discharge accomplishments, 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 upgrading your characterization of service. 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 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,

10/2/2023

