



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

█  
Docket No. 10401-23  
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 and began a period of active service on 29 November 1979. On 16 September 1980, you received your first nonjudicial punishment (NJP) for the wrongful possession of a habit-forming drug. A medical evaluation for drugs and alcohol documents you were psychologically dependent on alcohol and various drugs, including marijuana, and recommended you be referred to your perspective certified addictions counselor and alcohol rehabilitation center following counseling. On 12 November 1980, you received a second NJP for two specifications of unauthorize absence (UA). A few days later, a disposition message found you were not drug dependent and no rehabilitation was required, documented local counseling was completed, and recommended you be retained in service. On 26 November

1980, you received a third NJP for wrongfully possessing marijuana. You were eventually disqualified for submarine duty and your submarine designator was removed. Later, between December 1980 and March 1981, you received three additional NJPs for infractions ranging from wrongfully possessing marijuana and paraphernalia to misappropriation of government property. Consequently, you were notified of your pending administrative separation processing by reason of misconduct as evidenced by your frequent involvement of a discreditable nature with civil or military authorities. On 29 March 1981, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of misconduct for your frequent involvement of a discreditable nature with civil or military authorities. On 10 April 1981, 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: (1) you did not know you were an alcoholic and have not had a drink since March 17, 1992 thanks to alcoholics anonymous, (2) you drank a lot then, (3) you were “17 years old could put on your uniform and go drink,” and (4) you were young and tried to “flunk out” of boot camp but your company commander would not let you. 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 also noted you did not provide documents for purposes of clemency and equity consideration.

After thorough review, the Board concluded these 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 included 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. The Board also considered the likely negative effect your conduct had on the good order and discipline of your unit. 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. 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 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

