



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

█  
Docket No. 857-24  
Ref: Signature Date

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Dear █

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, 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 Marine Corps and began a period of active duty on 7 December 1982. On 25 September 1984, you received nonjudicial punishment (NJP) for a period of unauthorized absence from your appointed place of duty. On 11 December 1984, you received a second NJP for a second period of UA from your appointed place of duty. As a result, the suspended portion of your previous NJP was vacated. On 4 April 1985, you received a third NJP for wrongful possession of a controlled substance-marijuana. On 9 April 1985, you were counseled concerning your poor performance and advised that failure to take corrective action could result in administrative separation. On 20 May 1985, you received a fourth NJP for a third period of UA from your appointed place of duty. On 26 July 1985, you were counseled concerning your conduct as evidence of your positive urinalysis-cocaine, marijuana, reckless driving, and drunkenness.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and misconduct due to drug abuse. Subsequently, you decided to waive your procedural rights and offered a conditional waiver of your Administrative Discharge Board (ADB). Your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct and misconduct due to drug abuse. After your offer of conditional waiver was disapproved, you decided to waive your right to an ADB. Subsequently, your administrative separation proceedings were determined to be sufficient in law and fact. On 10 September 1985, the separation authority approved and ordered an OTH discharge characterization by reason of misconduct due to pattern of misconduct and drug abuse. On 13 September 1985, 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 for a discharge upgrade and contention that: (a) your father passed away while you were in service, (b) you had an exemplary military career prior to be discharged with an OTH, and (c) you were not offered any type of counseling, chaplain services, or any type of mental health counseling to assist you with the passing of your father. For purposes of clemency and equity consideration, the Board noted you did provide copies of five character letters of support that described post-discharge accomplishments.

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 it included drug related offenses. 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. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of your unit. Lastly, the Board noted that you were given multiple opportunities to correct your conduct deficiencies but continued to commit misconduct. 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 carefully considered the evidence you submitted in mitigation and commends you for your 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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 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,

2/27/2024

