



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

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Docket No. 2025-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 July 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 to 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 Navy and commenced a period of active duty on 14 July 1997. You disclosed a pre-service disciplinary history that included disturbing the peace, driving under a suspended license, driving with no insurance, furnishing alcohol to a minor, and various moving violations. On 19 December 1997, you received nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice under Article 112a, for which you were punished with 45 days of restriction and extra duty, reduction to the paygrade of E-3, and two months partial forfeiture of pay.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Navy on 5 January 1998 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is "Misconduct," your separation

code is “GKQ,” and your reenlistment code is “RE-4.” Your separation code is consistent with separation due to commission of a serious offense.

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 to “Honorable” to allow you to secure employment and your contentions that you were an exemplary recruit during boot camp, to include being awarded the Navy League Honor Award, but that you encountered circumstances beyond your control when your fiancé told you that she had been sexually assaulted. You state that you then discovered her claim to be false, which caused you to act irrationally, with behavior to include the drug abuse that ended your military career. You attribute your misconduct to poor judgment and irresponsible actions resulting from the mental trauma of her misinformation. Additionally, the Board noted you checked the “PTSD” box on your application but chose not to respond to the Board’s request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted you provided a copy of your commercial driver’s license and “mechanical journeyman” identification card.

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. Further, although the Board noted that policy guidance regarding consideration of clemency permits the Board to consider whether the severity of a single offense of drug abuse warranted an OTH characterization of service, the Board noted you served less than six months on active duty before abusing drugs and your conduct appears to be a continuation of your pre-service misconduct. Therefore, the Board was not persuaded by your contention that your drug abuse was due to mental trauma resulting in poor judgement. Finally, 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. While the Board carefully considered the evidence you submitted in mitigation and commends you on obtaining your professional credentials, 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 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,

8/21/2024

