



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

Docket No. 4676-24  
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 18 October 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).

You enlisted in the Navy and commenced active duty on 7 October 1981. On 22 January 1983, you received non-judicial punishment (NJP) for unauthorized absence (UA). On 2 May 1983, you received NJP for two specifications of UA. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 20 February 1984, you received NJP for wrongfully using a stolen credit card number, the property of another service member. You were issued another Page 13 counseling and again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 6 March 1984, you received NJP for four specifications of wrongfully and knowingly using controlled substances: cocaine, morphine, marijuana, and codeine. On 28 March 1984, you were evaluated for drug dependency as a result of positive urinalysis for morphine, codeine, cocaine, and tetrahydrocannabinol. You disclosed a

history of heroin use since 1979. The doctor noted that you had received Level I treatment previously, diagnosed you as drug dependent, and recommended additional treatment.

On 23 May 1984, you received NJP for UA and dereliction of duty. On 11 June 1984, you received NJP for wrongful use of cocaine. On 14 July 1984, you received NJP for disobeying a lawful order. Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse and pattern of misconduct. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. Your commanding officer recommended administrative separation and post-service rehabilitation through the Department of Veterans Affairs (VA). The Separation Authority subsequently directed your discharge with an OTH characterization of service. On 20 August 1984, you commenced a period of UA that ended in your surrender on 24 August 1984. You received NJP for UA on 29 August 1984. On 7 September 1984, you declined alcohol/drug dependency treatment at the VA Hospital, and you were discharged with an OTH characterization of service on the same day.

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 change your discharge characterization of service and your contentions that you were falsely accused, and you are in need of veterans' benefits. Additionally, the Board noted you checked the "PTSD," "Other Mental Health," and "Sexual Assault/Harassment" boxes on your application but chose not to respond to the Board's request for supporting evidence of your claims. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your 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 multiple drug 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 also considered the likely negative impact your repeated misconduct, which included theft of the property of another Sailor, had on the good order and discipline of your command. The Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately led to your discharge for a pattern of misconduct. The Board also noted you provided no evidence, other than your personal statement, to substantiate your contentions. 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. 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 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,

11/7/2024

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Executive Director

Signed by: ■