



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

█  
Docket No. 6249-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 17 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 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 Marine Corps on 13 September 2004. On 12 January 2004, you received a pre-service drug waiver prior to enlisting. On 21 January 2005, you tested positive for cocaine resulting in your commanding officer (CO) recommending that you be dropped from training. On 8 February 2005, you received non-judicial punishment (NJP) for wrongful use of cocaine. On 11 February 2005, you refused a medical evaluation. On 28 February 2005, your (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to drug abuse with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation but suspended your OTH characterization of service for 12 months unless sooner vacated.

However, on 14 June 2005, you tested positive for amphetamines and marijuana. On 20 June 2005, you received a mental health evaluation that assessed you with substance induced psychosis, alcohol abuse, and polysubstance abuse. On 7 October 2005, you fail to complete the in-patient substance abuse rehabilitation program (SARP). Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After electing to waive your rights, your CO forwarded your package to the SA recommending your

discharge by reason of misconduct due to drug abuse with an OTH characterization of service. The SA approved the CO's recommendation, and on 23 August 2006, 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 change your reentry code and contentions that you were young, immature, made mistakes, and you are now a new man that would like to serve in the Coast Guard. For purposes of clemency and equity consideration, the Board noted you provided supporting documentation describing post-service accomplishments and 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 and continuous drug use, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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. 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. Additionally, absent a material error or injustice, the Board declined to change a reentry code 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 RE-4 reenlistment code. While the Board carefully considered the evidence you provided 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 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, \_\_\_\_\_

8/4/2024

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Executive Director

Signed by: █