



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

█  
Docket No. 6590-24  
Ref: Signature Date

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Dear █

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 12 August 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 4 March 1987. After a period of continuous Honorable service, you immediately reenlisted and commenced another period of active duty on 26 December 1989.

On 24 February 1992, you were convicted by a Special Court Martial (SPCM) of failure to obey a lawful order, two specifications of assault, communicating a threat, and drunk and disorderly conduct. On 20 April 1992, you were issued a letter of substandard service and advised that failure to improve may result in ineligibility for retention. On 29 April 1993, you received non-judicial punishment (NJP) for disrespect toward a commissioned officer. On 30 December 1993, you were formally counseled for failing a spot check and having your preventative maintenance qualifications pulled; you were given ninety days to requalify. You were separately counseled the same day for reporting for duty with alcohol on your breath and you were referred to the Drug and Alcohol Program Advisor (DAPA). On 5 January 1994, you were formally counseled

for receiving a letter of indebtedness and were directed to address the matter and provide proof of resolution.

On 4 February 1994, you received Summary Court Martial (SCM) for unauthorized absence from 17 December 1993 to 20 December 1993, willfully disobeying orders from two Senior Chief Petty Officers and a First Class Petty Officer, and assaulting a First Class Petty Officer by hitting him in the face with your fist. On 28 February 1994, your command received notification of your positive urinalysis for tetrahydrocannabinol (THC). 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 commission of a serious offense. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. The Separation Authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 18 April 1994.

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. 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 SPCM, SCM, and NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board also considered the fact that your misconduct 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. 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. Finally, the Board observed that you provided no evidence in support of your application.

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,

9/4/2024

