



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

██████████
Docket No. 6656-24
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 25 September 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 U.S. Navy and began a period of active duty on 10 March 1997. Upon entry onto active duty, you were granted a waiver for possession of marijuana and larceny while in the Delayed Entry Program. On 11 March 1997, a counseling warning was issued for fraudulent induction for your failure to disclose your preservice marijuana use. On 20 May 1997, you completed alcohol awareness class and were briefed on the policy on underage alcohol abuse.

On 19 September 1999, you received non-judicial punishment (NJP), for unauthorized absence (UA) and making a false official statement. You were subsequently issued a counseling warning and advised further deficiencies in your performance or conduct will result in disciplinary action and processing for administrative separation. You received your second NJP, on 26 April 2000, for three days UA. On 11 May 2000, you received your third NJP, for wrongful use of cocaine.

As a result, you were notified of administrative separation processing for pattern of misconduct and drug abuse. You elected your right to submit a statement but waived your rights to consult with counsel and a hearing before an administrative discharge board. The commanding officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation and directed you be discharged for drug abuse. You were so discharged on 26 May 2000.

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 contentions that drinking was encouraged, you were constantly exposed to alcohol and other substances, your command master chief did not like you, you started dating another Sailor who was in a prior relationship with a chief who was the urinalysis coordinator, you did cocaine with the chief at a wedding reception, and the document saying you were fraudulently inducted into the Navy was incorrect and automatically started you off on the wrong foot with your superiors. The Board noted you checked the "PTSD" and "Other Mental Health" box on your application but did not respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted you provided your DD Form 214 and fraudulent induction counseling warning but no documentation describing post-service accomplishments or advocacy letters.

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 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. Furthermore, the Board noted you admitted to your drug abuse. Finally, the Board observed that you were given multiple opportunities to correct your conduct deficiencies but chose to continue 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. 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,

10/11/2024

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