



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

██████████
Docket No. 6841-24
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 6 December 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 Marine Corps after receiving a waiver for pre-service drug use and began a period of active duty on 16 July 1991. On 3 August 1993, you accepted nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 86 due to a period of unauthorized absence (UA) from 15 June 1993 through 12 July 1993. You were issued administrative counseling warning you that further misconduct could result in involuntary separation. On 13 October 1993, you were absent from your appointed place of duty without authority and were, therefore, subject to a second NJP on 3 November 1993. The following month, you were administratively counseled regarding illegal drug involvement following a positive result for cocaine use during a routine urinalysis screening. On 20 January 1994, you received a third NJP for a violation of Article 112a of the UCMJ due to wrongful use of a controlled substance. Subsequently, you incurred two additional periods of UA; however, you were processed for administrative separation, without further disciplinary action, for the reasons of misconduct due to drug abuse and pattern of misconduct. On 25 March 1994, your separation under Other Than Honorable (OTH) conditions was approved for the primary reason of pattern of misconduct. On 15 April 1993, 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 upgrade your discharge and your contentions that you began to experience anxiety and depression during your military service which led to drinking and subsequent misconduct. You state that you never drank prior to your military service and believe you deserve a discharge upgrade to provide veteran benefits and supplemental help. For purposes of clemency and equity consideration, the Board noted you provided a copy of a Department of Veterans Affairs supplemental claim form.

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. Further, the Board observed you were provided an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command. Regarding your mental health contentions, the Board noted that you did not submit any supporting medical documentation for consideration, nor did you provide a detailed personal statement regarding the cause or onset of your contended mental health conditions. 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, 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,

1/8/2025