



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

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Docket No. 6928-24  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 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 this 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 29 August 2000. On 3 April 2002, you were interviewed by a Naval Criminal Investigative Service (NCIS) agent and admitted to using the drug "foxy" on two occasions in October 2001 with your husband, who was also an active-duty service member. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of commission of a serious offense and drug abuse. You waived your procedural right to consult with military counsel and to present your case to an administrative discharge board. On 27 April 2002, you were evaluated by the counseling and assistance center (CAAC) and drug and alcohol program advisor (DAPA) and diagnosed as drug dependent but declined rehabilitation treatment. The commanding officer forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy under Other Than Honorable (OTH) characterization of service. Ultimately, the SA directed your OTH discharge from the Navy by reason of misconduct due to drug abuse and you were so discharged on 31 May 2002.

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 character of service and contentions that: (1) you were unaware of your ex-husband's actions at the time, (2) your discharge was based on guilt by association, (3) you informed NCIS of this and your ex-husband supported your claim of having no knowledge of his activities, and (4) you were still issued an OTH discharge. 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 admitted drug use, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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 also considered the likely negative effect your misconduct had on the good order and discipline of your command. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions. In reviewing the evidence, the Board noted the NCIS results of interview don't support your contention that you were only guilty by association.

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,

11/5/2024

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Executive Director

Signed by: █