



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

██████████
Docket No. 6978-24
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 21 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 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 12 November 1985. On 8 November 1989, you were honorably discharged. You immediately reenlisted and commenced a second period of active duty on 9 November 1989.

On 7 December 1990, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct following five occurrences of making, drawing, or uttering a check without sufficient funds. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 26 January 1991, you received non-judicial punishment (NJP) for unspecified misconduct. On 14 May 1991, you commenced a period of unauthorized absence (UA) ended by your surrender on 12 June 1991. On 14 June 1991, you received an NJP for this period of UA. You were also issued a Page 13 counseling. On 26 March 1992, you were convicted at Special Court-Martial (SPCM) of violation of the Uniform Code of Military Justice (UCMJ) Article 86 for UA,

Article 123 for making, drawing, or uttering a check without sufficient funds, and Article 112a for drug abuse. You were sentenced to five months of confinement, reduction in paygrade to E1, forfeiture of \$300 pay per month for a period of five months, and a Bad Conduct Discharge (BCD). You were so discharged on 16 August 1993.

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. The Board noted you did not provide any specific contentions as to error or injustice and, for purposes of clemency and equity consideration, 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 NJPs and SPCM, outweighed these mitigating factors. In making this decision, the Board considered the seriousness of your misconduct and 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 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. Finally, the Board noted 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 a BCD. 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,

11/7/2024

