



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

█  
Docket No. 7556-24  
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 4 November 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case on the evidence of record.

You were granted an enlistment waiver for pre-service marijuana use. You enlisted in the Navy and began a period of active service on 22 May 1984. On 29 July 1985, you received your first nonjudicial punishment (NJP) for the wrongful use of PCP (Phencyclidine-hallucinogenic). On 2 August 1985, you were issued administrative remarks due to sleeping while on watch. The remarks document you were being retained in the Naval service and advised you that further deficiencies in your performance and/or conduct may result in disciplinary action and in the processing for administrative discharge.

From 4 April 1986 through 11 January 1988, you received four additional NJPs for infractions ranging from unauthorized absence (UA) to disobeying a lawful order. Additionally, on 24 October 1987, you were examined by a medical officer and found not drug dependent but alcohol dependent. The medical officer recommended you be separated and offered rehabilitation treatment at a Department of Veterans Affairs hospital. As a result of your NJPs, you were notified of your pending administrative processing by reason of misconduct due to a pattern of misconduct (POM) and drug abuse, at which time you waived your rights to consult with counsel and to have your case heard before an administrative discharge. Your commanding officer recommended you be discharged with an Other Than Honorable (OTH) characterization of service adding, “[Petitioner] has expressed no desire or interest in fulfilling the remainder of his enlistment in a productive manner and does not object to this administrative separation.” Ultimately, on 29 January 1988, you were discharge with an OTH by reason of POM.

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 your contentions that: (1) you are requesting a discharge upgrade to qualify for veterans’ benefits, (2) you were less than four months from completing your four-year enlistment, had no court-martial, and never went AWOL (absent without leave), (3) following a traumatic childbirth experience with your wife, your mental state was impacted, leading to a few minor incidents; however, one of your evaluations was a 3.8, (4) after careful reflection, you believe you deserve an upgraded discharge, and (5) you have reached out multiple times over the years without a response and would like recognition as a veteran with access to medical benefits, as you deeply valued your time in service. For purposes of clemency and equity consideration, the Board noted you did not provide 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 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 that it included a drug offense. The Board determined 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 noted that illegal drug use in any form is still against the Department of Defense regulations and not permitted for recreational use while serving in the military. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veteran’s benefits or enhancing educational or employment opportunities. Additionally, the Board observed that you were provided multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH discharge. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

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. 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,

12/10/2024

