



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

█  
Docket No. 7830-24  
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 6 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).

You enlisted in the Navy and began a period of active duty on 5 August 1986. On 1 June 1989, you received non-judicial punishment (NJP) for failure to go to appointed place of duty, dereliction in the performance of duty, and leaving your post before properly relieved. On 09 August 1989, you received your second NJP for wrongful use of a controlled substance (amphetamine/methamphetamine). On 10 August 1989, you received administrative remarks retaining you in service and warning you to refrain from further drug abuse involvement. On 6 September 1989, you received your third NJP for six instances of failing to obey a lawful order by missing restricted muster, one instance of failing to obey a lawful order due to your uniform appearance, and wrongful use of amphetamine/methamphetamine. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct commission of a serious offense, pattern of misconduct, and drug abuse. After you waived your rights, your commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The separation authority

approved the recommendation, and on 5 October 1989, you were so discharged for pattern of misconduct.

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 promised your characterization would automatically upgrade to Honorable if you took the agreement your XO gave you, (2) you have not been in trouble since, (3) you did not go to rehabilitation treatment but just quit, and (4) you made a mistake that you regret. 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 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 involved two incidents of drug abuse. The Board determined that this illicit behavior by a service member is contrary to military core values and policy, renders such members unfit for duty, and reflects negatively on the military. Further, the Board noted that you were provided opportunities to correct your conduct deficiencies during your service; however, you continued to commit additional misconduct that led to your OTH discharge. Therefore, the Board was not persuaded by your contention that you made a mistake. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command. Additionally, the Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your claim that you were promised an automatic upgrade.

As a result, the Board determined 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. 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

