



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

■
Docket No. 8424-24
Ref: Signature Date

■■■■■■■■■■
■■■■■■■■■■
■■■■■■■■■■

Dear ■■■■■■

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 18 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 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, 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 27 December 1982. As part of your enlistment processing, you admitted to pre-service drug use. During recruit training, it was determined that you had enlisted without disclosing all your preservice medical history and arrest record. However, after an investigation was conducted, you were retained on active duty. On 10 June 1983, you received administrative remarks (Page 13) counseling stating that you were being retained in the naval service provided you would refrain from the use of controlled substances.

On 8 May 1985, you received another Page 13 counseling retaining you in service after you committed assault.

On 25 April 1986, a search your bunk and standup locker on the ■■■■■■ ■■■■■■ resulted in discovery of a glass tube containing a white crystal substance which was later identified as an amphetamine. That same day, you received non-judicial punishment (NJP) for possession of a controlled substance. On 1 May 1986, you were found to not be dependent physically or psychologically on drugs.

On 19 May 1986, a message from the Navy Drug Laboratory determined your urinalysis from 25 April 1986 tested positive for marijuana and cocaine use. This resulted in your second NJP for wrong use of a controlled substance. Consequently, you were notified that you were being administratively separated due to drug abuse. After you waived your right to consult with counsel and present your case at an administrative separation board, your commanding officer recommended you be separated with an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation, and you were so discharged on 13 June 1986.

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 proudly served as a crew member on the ■■■■■ (■■■■■) during the ■■■■■ Campaign, (2) that you learned quickly to be a team player, appreciate core military values, military custom and traditions, (3) you foolishly and regrettably experimented with recreation marijuana usage, (4) you were discharged for personal use and not the sale of drugs, (5) during your counseling there may have been several factors, such as peer pressure, age, deployment, separation stressors, and (6) you only learned you could request an upgrade when speaking to a retired enlisted advisor, and (7) you have changed your life to become a model citizen. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

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 included drug offenses. 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 noted that drug use in any form is against Department of Defense regulations and not permitted for recreational use while serving in the military. In addition, the Board considered the aggravating factor that your initial drug possession offense occurred onboard a naval vessel. Further, the Board concluded your misconduct showed a complete disregard for military authority and regulations. Finally, the Board noted that you were provided opportunities to correct your conduct deficiencies during your service but you continued to commit additional misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command.

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 and commends you for your post-discharge good character, 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 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,

2/5/2025

■