



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

██████████
Docket No. 8839-24
Ref: Signature Date

████████████████████
████████████████████
████████████████████

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 February 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 the 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 18 June 1984. Upon your enlistment, you admitted preservice use of a controlled substance-marijuana. On 30 August 1986, you received nonjudicial punishment (NJP) for violation to UCMJ Article 134. On 3 October 1986, you were counseled for wrongfully been in possession of another's identification card. You were advised that failure to take corrective action could result in administrative separation. On 1 April 1988, you were honorably discharged by reason of immediate reenlistment.

On 2 April 1988, you began a second period of active duty. On 20 April 1988, you tested positive to wrongful use of a controlled substance-cocaine. Subsequently, you were medically evaluated for drug and alcohol dependency and admitted preservice use of ETOH, cocaine, and marijuana. Between 21 May 1988 to 6 June 1988, you received two NJPs for one instance of

wrongful use of a controlled substance and unauthorized absence (UA) from appointed place of duty. On 26 June 1988, you were counseled concerning wrongful use of cocaine and advised that failure to take corrective action could result in administrative separation. On 9 June 1988, you received a fourth NJP for six instances of UA from appointed place of duty. Consequently, you were counseled concerning deficiencies in performance, specifically your failure to report to your appointed place of duty. You were advised that failure to take corrective action could result in administrative separation.

Between 30 July 1988 to 8 September 1988, you received two NJPs for a period of UA from appointed place of duty and one instance of disobeying a lawful order. You were counseled for both offenses and advised that failure to take corrective action could result in administrative separation. Between 30 May 1989 to 24 May 1989, you began two periods of UA totaling two days and 12 hours. On 12 June 1989, you were medically evaluated as a result of testing positive for use of cocaine. Consequently, you were diagnosed with cocaine dependency and recommended for administrative separation. On 1 July 1989, you began a period of UA which lasted seven-days. On 11 July 1989, you were convicted by special court martial (SPCM) and sentenced to a Bad Conduct Discharge. After completion of all levels of review, you were so discharged on 19 April 1990.

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 for a discharge upgrade and contentions that: (a) during deployment, you were a witness and a victim of racism, (b) men you considered friends became combative, (c) you and others were instructed not to report any incidents involving fights at sea, (d) you resorted to drugs as a coping mechanism, (e) your chief petty officer wrongfully deemed you as an alcoholic and informed you that you will be attending a class for alcoholism, (f) post discharge, you became an ordained minister and an interim pastor of your church. Additionally, the Board noted you checked the "PTSD" box on your application but provided no evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of what you stated on your DD Form 149 without any additional documentation for the Board's consideration.

After thorough review, the Board concluded these 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 finding, the Board considered the seriousness of your misconduct and the fact it included multiple 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. Further, the Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board commends you for your post-discharge rehabilitation, 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 the 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,

3/13/2025

