



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

Docket No. 9413-24
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 16 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 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 Marine Corps with a waiver for preservice drug abuse and began a period of active duty on 26 September 1990. Between 27 December 1992 and 1 February 1993, you were deployed in support of operation [REDACTED]. On 1 October 1993, you received nonjudicial punishment (NJP) for two specifications of false official statement and forgery of the battalion officer's initials. On 1 November 1993, you tested positive to use of a controlled substance-amphetamine/methamphetamine. On 15 November 1993, you began a period of unauthorized absence (UA) which lasted one-day. On 18 November 1993, you received a second NJP for wrongful use of a controlled substance-amphetamine/methamphetamine and UA.

On 29 December 1993, you were evaluated by a medical officer and determined to be non-dependent. Subsequently, you were notified of the initiation of administrative separation

proceedings by reason of misconduct due to drug abuse. After you waived your procedural rights, your commanding officer recommended an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were so discharged on 28 February 1994.

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 change to your reason for separation to reflect “drug use.” In addition, you request the Board award you an Overseas Service Ribbon. You contend that (a) drug abuse constitutes two or more uses, (b) you were convicted of one count for drug abuse, (c) drug use allows for drug treatment program, and (d) you rate the ribbon for overseas service from 1991 to 1993. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of your unit. Finally, the Board noted you were provided an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. 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 characterization.

Regarding your request to be awarded the Overseas Service Ribbon, the Board noted you were awarded the Sea Service Deployment Ribbon for your overseas service. Applicable regulations do not allow a service member to receive the Sea Service Ribbon and the Overseas Service Ribbon for the same period of service when assigned to the same Marine Corps unit. Therefore, the Board determined you are not entitled to be awarded the Overseas Service Ribbon.

Therefore, 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,

1/17/2025

