



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

Docket No. 9480-24

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 Navy and began a period of active duty on 9 April 1994. Upon your enlistment, you admitted to a preservice arrest and use of marijuana and alcohol. Between 16 August 1984 and 24 September 1984, you had two periods of unauthorized absence (UA) totaling four-days. On 27 September 1984, you were counseled concerning frequent periods of UA and advised that failure to take corrective action could result in administrative separation. On 4 October 1984, you received nonjudicial punishment (NJP) for a period of UA. On 16 November 1984, you were placed in custody by civil authorities for being under the influence of alcohol. Consequently, you were taken to the base dispensary for further care.

On 17 November 1984, you were evaluated by a medical officer as a result of alcohol intoxication and passing out. Consequently, you were diagnosed with Intoxication (Alcohol) R/O Substance Abuse. On 22 November 1984, you began a third period of UA which lasted four-days and resulted in NJP on 6 December 1984. Subsequently, you were counseled concerning alcohol

abuse and advised that failure to take corrective action could result in administrative separation. On 1 February 1985, you began a fourth period of UA which lasted six-days. On 11 February 1985, you received a third NJP for a period of UA and missing movement. On 30 April 1985, you began a fifth period of UA which lasted three-days.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and commission of a serious offense. After you decided to waive your procedural rights, your commanding officer recommended you be discharged with an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and directed your discharge by reason of misconduct due to commission of a serious offense. On 22 July 1985, you were so discharged.

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) you were dealing with depression, anxiety, and alcohol disorder, and (b) you wish to extend your sincere apologies to the U.S. Armed Forces for your misconduct while in service. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. 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 likely negative impact it had on the good order and discipline of your unit. The Board noted that you were given the opportunity to correct your deficiencies but continued to commit misconduct; which led to your OTH discharge. The Board determined 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 concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board appreciates your expression of remorse, 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

