



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

[REDACTED]
Docket No. 9893-24
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your reconsideration application on 17 January 2025. 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, 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty service on 18 December 1981. Your pre-enlistment physical examination on, 29 October 1981, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. On 2 May 1982, you reported for duty on board the [REDACTED] in [REDACTED].

On 19 October 1982, your command issued you a "Page 13" retention warning (Page 13). The

Page 13 expressly advised you that any further misconduct may result not only in disciplinary action but in processing for administrative discharge. The Page 13 also documented you being enrolled in a command-directed urinalysis surveillance program.

On 20 October 1982, you received non-judicial punishment (NJP) for the failure to obey a lawful general regulation due to your wrongful use of both cocaine and marijuana. You did not appeal your NJP.

On 15 November 1982, you received NJP for breaking restriction. As part of your punishment, you were placed in confinement on bread and water for three (3) days. You did not appeal your NJP. On 22 November 1982, your command issued you a Page 13 expressly advising you that any further misconduct may result not only in disciplinary action, but in processing for administrative discharge.

On 10 November 1983, you received NJP for four (4) separate specifications of unauthorized absence (UA). You did not appeal your NJP. On 10 November 1983, your command withdrew their recommendation and nomination for your advancement to SK3 as a result of your reduction in rate to E-2 at NJP.

On 24 May 1984, you received NJP for the wrongful possession of a controlled substance (marijuana). You did not appeal your NJP.

On 12 June 1984, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. You waived in writing your rights to consult with counsel, submit statements, and to request an administrative separation board. On 21 June 1984, the Separation Authority approved and directed your separation for misconduct due to drug abuse with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 22 June 1984, you were separated from the Navy for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

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 are trying to clean up your past mistakes, (b) you are trying to see if you can straighten out your record as it is an embarrassment to yourself, (c) you have been clean and sober for twenty-five (25) years and you are tired of being ashamed of your service record, and (d) everything was entirely your fault. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application, which consisted solely of the information you included on your DD Form 149.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that illegal drug possession and/or use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety

of their fellow Sailors. The Board noted that marijuana use is still against Department of Defense regulations and their use in any form is still not permitted for recreational use while serving in the military. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

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

1/23/2025

Executive Director

Signed by: