



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

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Docket No. 10149-24
Ref: Signature Date

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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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 March 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Navy and began a period of active duty on 21 August 1981. On 9 September 1981, you certified that you had never abused narcotics or been arrested for the possession or sale of marijuana. On 29 July 1983, you were subject to nonjudicial punishment (NJP) for a violation of Article 134 of the Uniform Code of Military Justice due to wrongful use of a controlled substance and you were administratively counseled that a continuation of your past performance could disqualify you from an honorable discharge. On 19 September 1983, you were disqualified from submarine duty for unreliability due to drug use. You then incurred an extended period of unauthorized absence (UA), from 29 November 1983 through 29 December 1983, after overstaying your authorized leave. As a result of your violation of Article 86 of the UCMJ, you were subject to a second NJP on 11 January 1984 and issued another administrative

counseling advising you that your record of minor disciplinary infractions and pattern of misconduct could result in adverse administrative action.

Following a positive urinalysis in October 1984, your second in-service drug related incident, you were advised on 26 November 1984 that you were being retained but had to correct your conduct deficiencies; to include immediately discontinuing any drug use. You were referred for a substance abuse evaluation, which you received in February 1985, during which you admitted to having a problem in abstaining from the use of marijuana. You were assessed as progressing toward dependence on marijuana and admitted to alleged experimental use of cocaine. As a result, you were recommended for a level I substance use rehabilitation program with routine urinalysis screening. You completed the Naval Substance Abuse Prevention Program course in March of 1985; however, you had a positive urinalysis five days after completing the program. This resulted in your third NJP, on 10 April 1985, for violation of Article 112a of the UCMJ due to illegal use of the controlled substance, marijuana. Following your NJP, you self-referred for further evaluation and assistance. You reported having had a marijuana habit for approximately 15 years with use of three to four joints daily; which resulted in an assessment that you appeared psychologically dependent on marijuana with an inability to abstain from usage due to relying on it as a coping mechanism. You also report increased cocaine use and, at some point, acknowledged having received approximately seven to eight months of inpatient civilian treatment in 1970 for heroin abuse. Although you were recommended for level II intensive outpatient counseling, you expressed your desire to be separated.

Consequently, you were notified of processing for administrative separation by reason of misconduct due to drug abuse and due to a pattern of misconduct. You elected to request a hearing before an administrative separation board (ADB) and the hearing convened on 29 May 1985. The ADB unanimously found that both bases for separation were substantiated by a preponderance of the evidence and recommended¹ that you be discharged under Other Than Honorable (OTH) conditions. Your commanding officer submitted a recommendation concurring that you should be discharged under OTH conditions. The separation authority approved the recommendation and directed your discharge due to a pattern of misconduct. You were so discharged on 14 September 1985.

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 to “Honorable,” to change your narrative reason for separation to “Secretarial Authority,” and to change your reentry code to “RE-1.” You contend that your discharge was unfair at the time, due to procedural and substantive defects, and remains so now. For the purpose of clemency and equity consideration, the Board considered the totality of your application².

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 multiple drug offenses. The Board

¹ By majority vote.

² Although your application to the Board references “allied papers” being submitted with your request, no accompanying documents were provided. The Board submitted a request to your legal counsel on 24 January 2025 regarding the submission of the aforementioned supporting documents and received no response.

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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit 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.

In its review of your service record, and notwithstanding the basis of pattern of misconduct specified in your discharge Record, the Board noted that your continued and increasing drug use was the primary impetus behind your administrative separation processing. Whereas the dissenting member of your administrative separation board expressed concern regarding the inadequacy of the drug use prevention treatment you had received up to that point, the Board found that you had been recommended for more robust counseling and rehabilitation services but had, instead, expressed a desire to be discharged. Further, during your enlistment processing and, at the time you certified in September 1981 that you had never abused narcotics or marijuana, the Board observed that you repeatedly failed to disclose your extensive and significant pre-service history of drug abuse; which included more than half a year of in-patient treatment for heroin abuse and more than a decade of chronic abuse of marijuana. Had you disclosed this information, it is unlikely that you would have been granted a waiver to enlist, given the serious nature of your drug abuse history.

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 carefully considered the evidence you submitted in mitigation, 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 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 is attached 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,

4/15/2025

