



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

██████████
Docket No. 10227-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 3 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 this 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).

During your enlistment processing, you disclosed pre-service misconduct that included marijuana use. Enlistment waivers were granted for theft, underage possession of alcohol, and a pre-existing medical condition. On 22 April 1988, you enlisted in the Navy and began a period of active duty. On 25 April 1988, you were briefed on the Navy's Drug and Alcohol Abuse policy. Subsequently, you underwent a substance abuse evaluation, during which you denied alcohol and drug abuse, showed no signs of drug dependency, and did not require inpatient care. However, the evaluation recommended counseling and possibly Level II treatment, if retained.

On 17 July 1991, you were found guilty by a general court-martial (GCM) of two specifications of wrongfully distributing methamphetamine. The court sentenced you to confinement, forfeiture of pay, reduction in rank, and a Bad Conduct Discharge (BCD). Your BCD was ultimately ordered to be executed and you were so discharged on 14 October 1992.

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 character of service and your contentions that you served your punishment. For purposes of clemency and equity consideration, the Board noted you provided your Certificate of Release or Discharge from Active Duty (DD Form 214) but no supporting documentation describing post-service accomplishment or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your GCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it included drug offenses. The Board determined that illegal distribution 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. Additionally, the Board also considered the likely negative effect your misconduct had on the good order and discipline of your command.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continued to merit a BCD. 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,

1/17/2025

