



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

██████████  
Docket No. 10504-24  
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 father's 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 4 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, 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).

You entered active duty with the Marine Corps on 14 September 1992. On 28 February 1994, you were formerly counseled on written worthless checks. On 28 April 1994, you received non-judicial punishment (NJP) for writing worthless checks. On 2 June 1994, you were formerly counseled on being negligent due to losing your Identification Card and Meal card. On 21 December 1994, you were formerly counseled on your financial responsibilities, tardiness, and insubordination toward superiors. On 3 February 1995, you received NJP for two specifications of failure to go to appointed place of duty, failure to obey a lawful order, and writing eight worthless checks. On 15 February 1995 and 21 June 1995, you were formerly counseled on your lack of discipline when dealing with money and being absence from appointed place of duty. On 30 June 1995, you received NJP failure to go to appointed place of duty at time prescribed. On 27 September 1995, a special court-martial (SPCM) convicted you of wrongful use of a controlled substance. As a result, you were sentenced to confinement for two months and a Bad Conduct Discharge (BCD). After completion of all levels of review, you were so discharged on 10 February 1997.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 8 November 2007, the NDRB denied your request after determining that your discharge was proper as issued.

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 and contention that you served without issues until you made a mistake in judgement. 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 and SPCM, outweighed the mitigating evidence in your case. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a 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 felt that your record clearly reflected your willful misconduct and demonstrated you were unfit for further service. Additionally, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; conduct that ultimately led to your punitive discharge. Finally, contrary to your contention that you suffered from a single lapse in judgement during your service, the Board observed that your record is replete with documented misconduct and poor performance. Regardless, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. However, in your case, the Board determined you were, more likely than not, awarded a BCD for your drug abuse because of your extensive record of misconduct prior to your SPCM.

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

1/6/2025

