



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

[REDACTED]
Docket No. 10955-24
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 14 February 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 to 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 23 January 2006. On 31 October 2006, you were subject to your first of three nonjudicial punishments (NJP) for multiple violations of the Uniform Code of Military Justice (UCMJ) including two specifications under Article 86 for being absent without leave, a violation under Article 92 for failure to obey an order or regulation, a violation under Article 121 for wrongful appropriation, and two specifications under Article 134 for being incapacitated for duty through prior wrongful indulgence in intoxicating liquor and for a false or unauthorized pass. Following your first NJP, you were issued administrative counseling warning you that further misconduct could result in your administrative separation. On 14 August 2007, you were subject to a second NJP for two additional unauthorized absences, in violation of Article 86 of the UCMJ, and for an additional Article 92 offense for failure to obey an order or regulation. In addition to yet another Article 86

offense, your third NJP on 21 November 2007 included a violation under Article 112a for wrongful use of the controlled substance MDMA. Incident to your drug use offense, you were notified of processing for administrative separation by reason of misconduct due to drug abuse, commission of a serious offense, and pattern of misconduct. After you waived your procedural rights, your commanding officer forwarded a recommendation for your discharge under Other Than Honorable (OTH) conditions; noting that you had been subject to NJP three times in less than two years of service and that you were a burden to the command. This recommendation was approved by the separation authority for the primary reason of misconduct due to drug abuse and you were so discharged on 6 December 2007.

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 “use GI Bill,” which the Board interpreted as a request to upgrade your discharge to “Honorable,” and your contentions that you have made strides to continue your education while being homeless and earned 107 of 123 credit hours in political science. Additionally, the Board noted you checked the “PTSD” and “Other Mental Health” boxes on your application but chose not to respond to the Board’s request for supporting evidence of your claims. For purposes of clemency and equity consideration, the considered the totality of your application; which consisted solely of what you stated on your DD Form 149 without any additional documentation for the Board’s consideration.

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 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. Additionally, 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities.

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 commends you for your efforts in completing your degree, 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 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,

3/13/2025

