



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

Docket No. 11131-24
Ref: Signature Date

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 10 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, 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 enlisted in the Navy and began a period of active duty on 27 July 1983. During your enlistment processing, you admitted to preservice drug use and an arrest. On 1 November 1984, you received nonjudicial punishment (NJP) for wrongful use and possession of two controlled substances-cocaine and marijuana. You were medically evaluated and determined not to be dependent. On 20 December 1984, you received a second NJP for drunk driving. You were counseled and advised that failure to take corrective action could result in administrative separation. On 15 January 1985, you were medically evaluated and recommended for Drug and Alcohol Level II counseling, which you were able to complete on 11 March 1985. On 21 June 1985, you received a third NJP for failure to obey a lawful order to follow the Drug and Alcohol Abuse Rehabilitation Program.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, pattern of misconduct, commission of a serious offense, and rehabilitation failure; at which point, you consulted with counsel and requested a case review by an Administrative Discharge Board (ADB). In the meantime, you received a fourth NJP for disobeying a lawful order and a period of unauthorized absence (UA). On 30 August 1985, the ADB was held and voted (3) to (0) that you committed misconduct due to drug abuse, pattern of misconduct, misconduct commission of a serious offense, and rehabilitation failure. The ADB recommended that you be administratively separated from the Navy with an Other Than Honorable (OTH) discharge characterization of service. On 12 September 1985, you received a fifth NJP for a period of UA and possession of drug paraphernalia.

On 23 September 1985, your commanding officer recommended an OTH discharge characterization. On 16 October 1985, you received a sixth NJP for a period of UA from appointed place of duty and failure to obey a lawful order. On 23 October 1985, you were evaluated by a medical officer and diagnosed with alcohol and drug dependency. On 13 November 1985, the separation authority approved your OTH discharge by reason of misconduct due to pattern of misconduct. On 18 November 1985, you were so discharged.

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 your current discharge is a bar for some Department of Veterans Affairs benefits and programs. 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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug related offenses. The Board determined that illegal drug use and possession 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 that you were given multiple opportunities to correct your conduct deficiencies and 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. 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 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,

3/12/2025

