



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. 11366-24
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 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, 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 were granted an enlistment waiver for driving under the influence (DUI) and signed the U.S. Marine Corps policy concerning illegal drug use. You enlisted in the U.S. Marine Corps and began a period of active duty on 22 March 2005. On 9 January 2006, you were counseled concerning alcohol related misconduct; specifically, a DUI. That same day, you were also counseled a second time for failing to demonstrate the potential, motivation, and maturity to discharge the duties of the current or next higher grade. On 7 March 2006, a special court-martial (SPCM) found you guilty of two specifications of failing to go to your appointed place of duty, wrongfully using cocaine, larceny, and wrongful appropriation. You were sentenced to be reduced in rank to E-1, 6 months of confinement, forfeiture of \$700.00 pay per month for six months, and a Bad Conduct Discharge (BCD). Subsequent, you were afforded voluntary inpatient substance abuse rehabilitation treatment at the U.S. Naval Hospital Camp Pendleton. Your BCD was ultimately ordered to be executed and you were so discharged on 18 September 2007.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) you destroyed your career in a matter of days, experiencing blackout drunkenness with no memory to explain your poor judgment and uncharacteristic behavior, (2) your actions over those days were a result of struggling with substance abuse disorder; leading you to behave in a way that was completely out of character, (3) while you take full responsibility for your actions, you respectfully requests that the violations be reviewed; as you believe you were confined during the dates you were accused of committing the offenses, and (4) to this day, you continue to struggle with the weight of failure and deep regret over your court-martial. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your statement and excerpts from your military record.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that 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. Additionally, the Board noted that your conduct showed a complete disregard for military authority and regulations. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

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,

3/5/2025

