



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

██████████
Docket No. 11431-24
Ref: Signature Date

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Dear ██████████

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 7 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 with an acknowledged history of pre-service marijuana use and began a period of active duty on 20 February 1986. On 3 June 1988, you were subject to nonjudicial punishment (NJP) for violation of the Uniform Code of Military Justice (UCMJ) under Article 112a due to wrongful use of the controlled substance, marijuana and cocaine. A subsequent medical evaluation resulted in a diagnosis of cocaine dependence. On 14 September 1988, you were administratively counseled that you were being retained in spite of your prior drug offense but were advised to seek counseling either from the Counseling and Assistance Center or from family services to correct your drug abuse problem, which was against the Navy's zero tolerance policy.

On 7 March 1989, you sought medical care for complaints of anxiety due to spousal infidelity and you were diagnosed with reactive depression of a temporary or situational nature. Subsequently, you received another drug use evaluation of 7 June 1989 following a positive urinalysis; again, for cocaine use. You were again evaluated as being drug dependent and assessed as having a high potential for future drug abuse with no potential for further service. On 13 June 1989, you were then subject to a second NJP for another violation of Article 112a of the UCMJ, cocaine. Consequently, you were notified of your proposed discharge for drug abuse and your rights incident thereto; but had chosen not to consult legal counsel and elected to waive your hearing before an administrative separation board. Your command recommended that you be discharged under Other Than Honorable (OTH) conditions by reason of misconduct due to drug abuse. Your separation was approved, and you were discharged on 28 July 1989.

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 your contention that your discharge and character of service are unjust due to your “mental state of mind and events that were going on in that period” of your life. You also contend that you are missing awards for the Navy Expeditionary medal and a Meritorious Unit Commendation. For purposes of clemency and equity consideration, the Board 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 multiple drug offenses. 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 observed you were provided an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH discharge. Although you were initially retained after your first drug related NJP and afforded the opportunity to attend rehabilitation treatment, you chose to continue abusing controlled substances. 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.

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.

Regarding your request for missing awards, the Board found that you have not yet sought correction of these awards via an application to Commander, Naval Personnel Command. Board regulations require you to exhaust your administrative remedies prior to applying to this Board for relief. Therefore, the Board took no action on this aspect of your application.

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,

3/6/2025

