



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. 568-25
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 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 14 May 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 21 May 1991. On 15 December 1992, you were issued an administrative remarks (Page 13) retention warning formally counseling you concerning your habitual tardiness and failure to provide a valid means of recall after normal working hours. On 25 January 1993, you were issued a Page 13 retention warning formally counseling you concerning your unauthorized absence, absence from your appointed place of duty, and dereliction in the performance of your duty. On 18 March 1993, you received a medical evaluation for drug dependency following a positive urinalysis test. You were medically determined not to be drug dependent. On 24 March 1993, you received non-judicial punishment (NJP) for wrongful use of amphetamine and methamphetamine.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. You were informed that the least favorable characterization of service you may receive is under Other Than Honorable (OTH) conditions. You elected your procedural right to consult with counsel and to submit a statement on your behalf but waived your right to present your case to an administrative discharge board. The commanding officer (CO) recommended to the separation authority your administrative discharge from the Navy. The CO stated in pertinent part:

[Petitioner's] drug abuse was detected by a random urinalysis on 16 February 1993. [Petitioner] was well aware of the consequences of drug abuse. Such disregard of the Navy's policy against drug abuse demonstrates that he has no potential for future useful naval service. Accordingly, I recommend that [Petitioner] be separated from the naval service with an Other Than Honorable discharge.

The separation authority approved the recommendation and you were so discharged on 7 May 1993.

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 character of service and contentions that: (1) you fell into a deep depression after the discovery of your spouse having an affair, (2) you were never given the opportunity to seek treatment or rehabilitation before your discharge, (3) you were not given an opportunity to change the path that you were on, (4) the Navy was downsizing at the time of your infraction, so you were dismissed without any recourse, and (5) you feel that if you had been offered drug and alcohol treatment in your career you would have been one that was honorable and respected. You also mentioned suffering from a mental health condition at the time of your service but chose not to respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition and statement without any other additional documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. 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. The Board also considered the likely negative effect your misconduct had on the good order and discipline of your command. Further, the Board found that your misconduct was intentional and made you unsuitable for continued naval service. Furthermore, the Board also determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions. Moreover, the Board determined your command was under no obligation to send you to alcohol or drug rehabilitation treatment unless it was determined, by competent medical authority, that you were dependent. The Board found no documentation in your record that shows you were alcohol or

drug dependent. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

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 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,

5/28/2025

