



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

██████████
Docket No. 0879-25
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 March 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 26 September 1984. Prior to commencing active duty, you admitted preservice use of marijuana, and preservice arrest/charges for attempt to commit a crime, petty larceny, and possession of stolen property. On 18 September 1985, you were apprehended by civil authorities and charged with disorderly conduct. On the same date, you began a period of unauthorized absence (UA) which lasted 36 days. On 2 October 1985, you were charged and convicted for disorderly conduct and simple possession of drugs. Additionally, you tested positive for use of two controlled substances-cocaine and marijuana. On 6 November 1985, you received nonjudicial punishment (NJP) for four instances of UA, wrongful

use of a controlled substance, and attempt to wrongfully appropriate property other than your own.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse. You decided to waive your procedural rights, and your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation, and you were so discharged on 20 March 1986.

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: (a) you served honorably from the time you enlisted up until the time you were arrested for possession of marijuana, (b) you declined the opportunity to remain in service and attend a two year rehabilitation program, (c) you were a 20 year old young man who did not understand the significance of your decision and still feel regret to this day, (d) post discharge, you decided to stop using drugs, began working as a contractor, and lead a good life next to your family. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted solely of your petition without any other additional documentation.

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 NJP and civil conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included multiple drug related 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 considered the likely negative effect your conduct had on the good order and discipline of your unit and the likely discrediting effect your civil conviction had on the Navy.

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,

4/10/2025

