

DEPARTMENT OF THE NAVY

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

> Docket No. 1525-25 Ref: Signature Date

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 2 June 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 commenced active duty on 17 December 2003. Prior to enlisting, you received waivers for pre-service offenses of disorderly conduct, indecent exposure, and possession with intent to use drug paraphernalia. On 19 April 2005, your command was notified of your urine sample testing positive for cocaine and marijuana. On 21 April 2005, your command received notification of an additional urine sample that you provided testing positive for cocaine. On 4 May 2005, you received non-judicial punishment (NJP) for five specifications of wrongful use of cocaine, marijuana, ecstasy, mushrooms, and Lysergic acid diethylamide (LSD), and two specifications of wrongful distribution of marijuana.

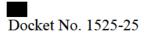
Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse. You consulted with legal counsel, elected to submit a statement, and waived your right to have your case heard by an administrative discharge board. The separation authority subsequently directed your discharge with an OTH characterization of service, and you were so discharged on 22 June 2005.

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 change your discharge characterization of service and your contentions that you worked with Naval Criminal Investigative Service (NCIS) at the time of your discharge and "helped arrest the man," and that you currently work and attend college. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

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 drug offenses; including use and distribution. The Board determined that illegal drug use and distribution 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. Finally, the Board noted you provided no evidence, other than your personal statement, to substantiate your contentions. Regardless, the Board noted that the nature of your drug offenses normally warrant referral to a court-martial and would result in a punitive discharge. Therefore, the Board determined you already received a large measure of clemency when your command adjudicated your misconduct at NJP.

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 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,

6/25/2025

