



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 2415-25

Ref: Signature Date

[REDACTED]

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 5 December 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 also considered an advisory opinion (AO) from Navy Personnel Command (NPC) and your AO rebuttal.

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 took your oath of office and commissioned as an Ensign in the U.S. Navy Reserve, on or about 22 April 1996, through the Direct Commission Program. Your commissioning physical examination and self-reported medical history both noted no neurological or psychiatric conditions, symptoms, issues, or treatment history. On 1 July 2005, you were promoted to the grade/rank of Lieutenant Commander (O-4).

On 20 August 2008, you were stopped by the [REDACTED] Highway Patrol for a routine traffic violation. During the course of the traffic stop, the patrol officer determined that you were in possession of over 500 grams of methamphetamine. A subsequent investigation revealed that you were transporting the illegal drugs from [REDACTED] to the [REDACTED] area.

In April 2009, you were tried and convicted in the United States District Court for the Northern District of [REDACTED] for one count of felony possession with intent to distribute 500 grams or more of methamphetamine. The Court sentenced you to serve twenty (20) years in federal prison.

On 1 July 2010, NPC (PERS-9) completed a Final Civil Action Report (FCAR). The FCAR documented your arrest, conviction, and sentence. PERS-9 recommended that you be required to show cause for retention in the naval service and provided you with an opportunity to submit a rebuttal statement. Following your receipt of the FCAR, on 3 August 2010, you submitted an FCAR rebuttal to PERS-9.

On or about 30 August 2010, the Show Cause Authority (SCA) determined there was sufficient evidence to separate you from the naval service, and initiated administrative action to separate you before a board of inquiry (BOI). The Board noted there was no further evidence in the record that the SCA pursued the BOI process to its completion.

On 18 October 2011, NPC notified you that action to “drop you from the rolls”¹ was initiated in accordance with SECNAVINST 1920.6C² and 10 U.S.C. §1161,³ based, in part, on your sentence to confinement after being found guilty of an offense in federal criminal court. NPC informed you that no certification of discharge will be issued upon dropping you from the rolls because such service would not be characterized. In response, you submitted your completed acknowledgment of rights form on or about 1 November 2011.

On 24 July 2012, the Chief of Naval Personnel (CNP) recommended to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (“ASNMRA”), that you be dropped from the rolls (DFR) and to recoup any community managed bonuses as applicable. CNP specifically noted in their recommendation:

[COMNAVPERSCOM] Millington TN ltr 1920 Ser 834D/448 of 13 Oct 11] notified [Petitioner] of the initiation of administrative proceedings to drop him from the rolls of the Navy. In response, he acknowledged his rights and stated his appeal process was not completed.

¹ “Drop from the Rolls” (DFR) is an administrative action that may be taken in limited circumstances that terminates a commissioned officer’s military status along with any rights, benefits, and pay to which he or she may have otherwise been entitled because of that status. No characterization of service is awarded.

² SECNAVINST 1920.6C CH-4 (20 September 2011), was the relevant guidance in effect at the time of your DFR.

³ 10 U.S.C. §1161(b) states: “The President or the Secretary of Defense...may drop from the rolls of any armed force any commissioned officer (1) who has been absent without authority for at least three months, (2) who may be separated under section 1167 of this title by reason of a sentence to confinement adjudged by a court-martial, or (3) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.”

On February 14, 2012, Navy Personnel Command Legal, verified via phone conversation with [REDACTED] OJAG Code 14, General Litigation, that [Petitioner] has exhausted all of his appeals with the exception of his appeal to the U.S. Supreme Court.

Recommendation. Drop [Petitioner] from the rolls of the Navy. No certification of discharge will be issued upon separation since such service is not characterized. For the purpose of any Federal benefit based upon characterization of service, his discharge will be considered as a discharge under Other Than Honorable conditions. Recoup community managed bonuses as applicable.

On 13 February 2013, ASNMRA approved CNP's request to drop you from the rolls of the Navy under the authority vested in 10 U.S.C. §1161(b). Ultimately, you were dropped from the rolls of the U.S. Navy with an "uncharacterized" character of service.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Hagel, Kurta, and Wilkie Memos. These included, but were not limited to, your desire to be placed on the retired list with back pay and your contentions that: (a) you have been victimized by both material errors of procedure and material injustices, (b) you have essentially been sentenced to a lifetime of financial strife because you have had your retirement inequitably taken from you, (c) you were not notified that you were being dropped from the ranks [rolls] of the Navy, (d) nor were you notified that being dropped from the ranks [rolls] of the Navy would prevent you from collecting your retirement for 20 years of service, and (e) you were not afforded due process to object to this [DFR] action. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted of your DD Form 149 and the evidence you provided in support of your application.

As part of the review process, NPC (PERS-91) reviewed the timeline of events in your case and issued an AO on 29 August 2025. The AO concluded, "[Petitioner] is ineligible for military retirement because he was DFR on February 13, 2013, which removed his eligibility for retirement in accordance with [SECNAVINST 1920.6D]."

In response to the AO, you provide additional evidence in rebuttal.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve retroactive retirement eligibility with back pay and that you also be placed on the retired list. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board determined that there was no convincing and/or credible evidence in the record regarding any command misconduct, improper motives, or abuses of discretion in the investigating, handling and processing of your misconduct and your subsequent DFR and separation. The Board determined that your DFR and subsequent separation for drug-related misconduct was legally and factually sufficient. The Board also noted the apparent lack of follow-through by the SCA to pursue a BOI in lieu of a DFR was well within their discretion and was neither instructive nor relevant for purposes of your reviewing your DFR.

The Board determined that your lack of due process contentions were without merit and not persuasive. The Board noted, contrary to your contentions, that you were provided with adequate notice of the CNP's intent to initiate the DFR process in October 2011 and that, on 1 November 2011, you affirmatively acknowledged your rights and indicated that your appeal process was not completed and final. Moreover, the Board noted that paragraph 9c of enclosure (4) to SECNAVINST 1920.6C CH-4 clearly provided that neither a hearing nor a board is required in order to drop officers from the rolls.⁴

The Board determined that your drug-related offenses involving felony possession with the intent to distribute methamphetamine clearly demonstrated you had minimal potential to contribute

⁴ Paragraph 9 of enclosure (4) to SECNAVINST 1920.6C CH-4 states:

9. Dropping from the Rolls

- a. Under sections 1161, 12684, and 6408 of [10 U.S.C.], the President or SECNAV, depending upon the applicable statute, may drop from the rolls of an Armed Force a Regular or Reserve officer who:
 - (1) has been absent without authority for at least 3 months,
 - (2) has been sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final, or
 - (3) except for warrant officers, W-1, has been sentenced to confinement for more than 6 months by a court-martial, when the officers have served in confinement for a period of 6 months and their sentence becomes final.

For purposes of this section, finality of the sentence of a civilian or military court will occur upon completion of all appeals to which the defendant is entitled by law.

- b. Action to initiate dropping officers from the rolls shall normally be undertaken by CHNAVPERS or the DC (M&RA), on a case-by-case basis, after a finding that one or more of the above conditions exist, and the return of the officers to military control for processing for separation for cause under this instruction will serve no useful purpose.
- c. Neither a hearing nor a board is required in order to drop officers from the rolls. However, officers so considered shall be notified of such prospective adverse action (or reasonable efforts shall be made to provide such notification if actual notification cannot be made) and provided the opportunity to respond within 30 days of receipt of notification. Upon completion of the dropping from the rolls action, notification will be addressed to the officers concerned. No certificate of discharge is issued upon separation by dropping from the rolls since such service is not characterized. For the purpose of any Federal benefit based upon characterization of service, dropping from the rolls shall be considered as a discharge under Other Than Honorable conditions.

positively to the Navy as an officer responsible for the care and well-being of enlisted Sailors. The Board determined that DFR in your case was appropriate since the basis for separation was the commission of an act or acts constituting a significant departure from the conduct expected of a naval officer.

As a result, the Board determined that there was no impropriety or inequity in your DFR and discharge, and concluded that your misconduct and disregard for good order in discipline clearly merited your DFR. 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 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,

12/17/2025

[REDACTED]
Executive Director

Signed by: [REDACTED]