



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. 2422-25
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 21 July 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 after admitting to preservice marijuana use and commenced active duty on 1 May 1987. On 8 January 1991, you self-referred to medical for alcohol abuse and were recommended for Level III in-patient treatment. You were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. You attended Level III in-patient treatment in █ from 14 February 1991 to 14 May 1991. On 15 May 1991, you received Page 13 counseling for missing your scheduled flight from █ to █. You submitted a rebuttal statement indicating your flight from █ was delayed,

your Military Air Cargo ticket had the wrong flight time, and it took you a day to find your lost luggage.

On 22 May 1991, you reported to military sick call at the █ Medical Clinic after a motor vehicle accident and were subsequently restricted from air travel. On 9 July 1991, you were cleared for travel to your overseas assignment. On 13 July 1991, you were transferred to the Transient Personnel Unit (TPU) █. Your record indicates time lost between 13 July 1991 and 16 July 1991. On 27 August 1991, you rejoined the █. On 27 January 1992, you received Page 13 counseling for indebtedness and were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 18 March 1992, you underwent rhinoplasty surgery. On 20 April 1992, you were treated at medical for an accident where you were hit by a motor vehicle while riding your bicycle.

On 20 May 1992, you received non-judicial punishment (NJP) for wrongful use of amphetamine/methamphetamine. 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 elected to consult with legal counsel and requested an administrative discharge board (ADB).

During the ADB, the Command Urinalysis Coordinator testified that, after you tested positive for both cocaine and amphetamine/methamphetamine, the command contacted the Navy Drug Lab Technical Director who indicated the cocaine was accounted for from the drugs you were prescribed after surgery but that you were not prescribed drugs that would return a false positive for amphetamine/methamphetamine. After hearing conflicting opinions from the Surgeon and Technical Director, the ADB concluded that you had wrongfully abused drugs. The ADB found that you had committed misconduct and recommended that you be discharged under General (Under Honorable Conditions) (GEN) by reason of misconduct due to drug abuse. The separation authority concurred with the ADB, directed a GEN discharge, and you were so discharged on 1 October 1992.

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 contentions that you were wrongly punished and discharged for drug use, your test came back positive for “methamphetamines, LSD, opioids, marijuana, benzoos, and steroids,” this was a false positive due to the medication you were taking after rhinoplasty, two medical officers and a civilian doctor stated at the review board that the test was bad, the ADB members were afraid to go against the Captain’s decision, the Captain had a drinking problem, and you have suffered for thirty years because a bad officer decided to ruin your life. You also checked the “PTSD” box on your application but chose not to respond to the 11 March 2025 letter from the Board requesting evidence in support of your claim. 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 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 that you were afforded all required due process; which included an ADB hearing, during which you testified and presented mitigation evidence, and review by higher authority. Further, the Board noted that you have provided no evidence, other than your statement, to substantiate any of your contentions. Therefore, the Board found that the presumption of regularity applies in your case. Finally, the Board found that you already received a large measure of clemency from the Navy when you were assigned a GEN characterization of service for misconduct that normally warrants an Other Than Honorable discharge.

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,

8/6/2025

