



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. 2616-25
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 15 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 U.S. Navy and began a period of active duty on 26 June 2000. Upon entry onto active duty, you denied illegal use of marijuana on your Record of Military Processing and OPM Security Clearance Application but admitted to illegal use of marijuana on your Report of Medical History. On 30 August 2001, you received non-judicial punishment (NJP) for failure to obey a lawful order for underage drinking, damage to military property by punching a hole in the wall, and drunk while on duty. Subsequently, you were issued a counseling warning and advised further deficiencies in your performance and or conduct may result in disciplinary action and in processing for administrative separation. On 26 September 2001, you received your second NJP

for two specifications for underage drinking in the barracks and failure to obey the commanding officer's (CO) restriction and extra duties order by drinking alcohol in a restricted status. On 11 December 2003, you were found guilty for assault and battery and disorderly conduct in civilian court. You were sentenced to 12 months confinement (suspended) and a \$450.00 fine. On 11 June 2004, you were found guilty in civilian court for failure to pay the court awarded fines from your 11 December 2003 conviction. You were sentenced to a one year suspended license. You received your third NJP, on 15 June 2004, for UA and making a false official statement. Subsequently, you were issued a second counseling warning. On 1 February 2005, you were convicted in civilian court for the third time for obstruction of justice, leaving the scene of an accident, and driving on a suspended license. You were sentenced to \$849.00 fine and 90 day suspended license. On 16 March 2005, you received your fourth NJP for failure to go to appointed place of duty and wrongful use of marijuana.

Consequently, you were notified of administrative separation processing for misconduct pattern of misconduct and drug abuse. You waived your rights to consult with counsel and a hearing before an administrative discharge board. The CO made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. In his recommendation, he stated in pertinent part:

Although the Navy provided [Petitioner] with every opportunity to succeed, he has proven himself time and again to be untrusting, unreliable, and has no potential for further service...[Petitioner's] blatant disregard for good order and discipline, adherence to civil laws, and the Navy's zero tolerance drug abuse policy cannot be tolerated...[Petitioner] has earned separation from the naval service...

The SA accepted the recommendation and you were so discharged on 24 March 2005.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 23 October 2018, after determining your discharge was proper as issued.

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 you had been gone from the ship on medical leave for about two months when you came up for urinalysis, you were only back on the ship that day to renew your medical leave chit, before leaving the ship for another month of medical leave you had a random UA that day, you had your doctor come and speak on your behalf since it was very bizarre and medically impossible for you not tested positive for opiates, and the CO did not consider this and just kicked you out. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and civilian convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. Furthermore, the Board considered the likely discrediting effect your civil convictions had on the Navy. The Board concurred with your CO's assessment that the Navy provided you with every opportunity to succeed and your conduct showed a complete disregard for military authority and regulations. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Finally, the Board noted that 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 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,

7/28/2025

