



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

[REDACTED]
Docket No. 2636-25
Ref: Signature Date

[REDACTED]

Dear Petitioner:

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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 19 September 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).

You enlisted in the Navy, with a pre-service history of marijuana and methamphetamine use, and began a period of active duty on 20 September 2004. On 5 July 2006, you were issued administrative counseling in relation to a lost military identification card. On 1 March 2007, you were subject to nonjudicial punishment (NJP) for three specifications of failure to obey an order or regulation in violation of Article 92 of the Uniform Code of Military Justice (UCMJ). You were also issued administrative counseling advising you to correct your deficiencies and warning you that further misconduct could result in administrative discharge. Shortly thereafter, on 13 June 2007, a message from the Naval Drug Laboratory reported your drug screening urinalysis positive for cocaine metabolites and you received a second NJP for violation of Article 112a due to your wrongful use of cocaine. Consequently, you were notified of processing for administrative separation by reason of misconduct due to drug abuse and due to a pattern of misconduct. You submitted a statement and expressed your remorse for your actions and lack of

judgment. However, after consultation with legal counsel, you elected to waive your right to a hearing before an administrative discharge board and the recommendation for your discharge under Other Than Honorable (OTH) conditions was approved for the primary basis of misconduct due to drug abuse. You were so discharged on 30 July 2007.

You previously applied to the Naval Discharge Review Board (NDRB) seeking an upgraded discharge on the basis of equity. Your request was considered on 21 February 2008 and denied.

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 change your narrative reason for separation to Secretarial Authority. You contend that your post-service character and accomplishments warrant consideration of a grant on the basis of clemency factors. You specifically identify your candor, the length of time since your misconduct, youthful indiscretion, acceptance of responsibility, remorse, rehabilitation, job history, contributions to society, and reputation within your community. In addition to your personal statement and your legal counsel's brief in support, you submitted college transcripts of your degree in early childhood education and several letters of support. You also stated that you have been a teacher for the past six years with the last two years teaching special needs children. You feel that you have worked hard to put the painful part of your past behind you, which included a downward spiral with mental health and sobriety after your discharge, and you would like the words "drug abuse" removed from your record. Additionally, you checked the "Other Mental Health" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. 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.

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, 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. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. 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 determined that characterization under OTH conditions is generally warranted for multiple incidents of misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor.

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. While the Board carefully considered the evidence you submitted in mitigation and commends you for career in child special education, 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 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 is attached 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,

11/19/2025

