



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

■  
Docket No. 2911-25  
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 30 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 28 May 1985. On 1 April 1988, you commenced a period of unauthorized absence (UA) that ended on 4 April 1988. On 11 March 1988, you received non-judicial punishment (NJP) for your UA. On 7 April 1988, you commenced a period of UA, during which you were declared a deserter, that ended on 7 May 1988. Per your medical record, you were involved in a motorcycle accident on 29 May 1988, received spinal fusion surgery from your injuries on 2 June 1988, and were placed on limited duty for twelve months. On 24 June 1988, you commenced a period of UA that ended on 18 July 1988. On 30 July 1988, you were found guilty at SCM of UA and missing ship's movement. On 5 August 1998, you commenced a period of UA that ended on 14 August 1988.

On 19 August 1988, you received NJP for UA and wrongful use of 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 and pattern of misconduct. You elected to consult with legal counsel and subsequently waived your rights to submit a statement or have your case heard by an administrative discharge board. You were evaluated for substance dependency by a medical officer and indicated you used methamphetamine every weekend so you could “stay up late and party” and had also used cocaine twice while in service. The medical officer determined you were a drug abuser, not dependent, and you were offered Level II substance abuse counseling; which you declined. After you were cleared for discharge by the spinal clinic, the separation authority directed your discharge with an OTH characterization of service and you were so discharged on 5 January 1989.

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 were never prosecuted for illegal drugs, you only used drugs that were prescribed to you after you broke your back, you were an outstanding Sailor, you were young and naïve, and you desire Department of Veterans Affairs (VA) benefits. 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 NJPs and SCM, 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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities 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. Additionally, the board observed the inconsistencies between your in-service admission of methamphetamine and cocaine use and your current contention denying the use of illegal drugs. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits or enhancing educational or employment opportunities.

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,

7/18/2025

■

Executive Director

Signed by: ■