



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

Docket No. 3011-25
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 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).

You enlisted in the Navy and began a period of active duty on 6 May 1992. On 12 November 1992, you reported to [REDACTED] for duty. On 25 March 1994, you received non-judicial punishment (NJP) for wrongfully possessing, with the intent to deceive, an official DOD vehicle registration sticker. On 31 March 1994, you were issued an administrative remarks (Page 13) retention warning counseling concerning deficiencies in your performance and conduct as evident by your NJP. You were provided with recommendations for corrective action, and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation.

On 27 December 1994, you reported to [REDACTED] for duty. On 20 June 1995, you received your second NJP for failure to obey an order or regulation. On 6 November 1995, [REDACTED] [REDACTED] that your urine sample tested positive for cocaine. On 8 November 1995, you received your third NJP for wrongful use of a controlled substance. On 20 November 1995, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. You were informed of

the basis for this recommendation and that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You elected your right to consult with counsel and to present your case to an administrative discharge board (ADB). On 4 January 1996, the ADB found that you had not committed misconduct and recommended that you be retained in the naval service. On 12 January 1996, you received your fourth NJP for misbehavior of sentinel.

On 18 January 1996, you were re-notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to pattern of misconduct and commission of a serious offense. You waived your right to consult with counsel and present your case to an ADB. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an OTH. In his recommendation, the CO stated:

[Petitioner's] is not fit for continued military service and his misconduct onboard ■ is prejudicial to good order and discipline. He is a marginal performer whose actions have proven to minimum standards. [Petitioner] is a burden to the command. I strongly recommend he be separated from the Navy under Other Than Honorable conditions as soon as possible.

Ultimately, the separation authority approved the recommendation and directed your administrative discharge by reason of misconduct due to pattern of misconduct. You were so discharged on 5 April 1996.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 6 April 2001, based on their determination that 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 to upgrade your discharge character of service and update your reenlistment code. You contend that: (1) your discharge was inequitable due to extenuating circumstances that were not considered at the time of your separation, (2) the abuse you experienced while in the foster care system affected your behavior and ability to develop into a normal adult and still affects you to this day, and (3) the Executive Officer did not agree with the ADB findings and therefore decided to discharge you with an OTH character of service for pattern of misconduct. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your statement, and advocacy letters you provided.

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 administrative counseling and NJPs, 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. Further, the Board 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. The Board determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. Furthermore, the Board also determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions.

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, 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 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

