



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 3605-25

Ref: Signature Date

[REDACTED]

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 22 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).

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 Naval Reserve after receiving a waiver for pre-service drug use and a possession offense and commenced active duty on 29 November 1979.

On 3 April 1980, you received non-judicial punishment (NJP) for failure to obey a lawful order and two specifications of unauthorized absence (UA). On 18 April 1980, you commenced a period of UA that ended in your surrender on 30 April 1980. On 30 May 1980, you commenced a period of UA that ended in your surrender on 12 June 1980. Although you were directed to report to your command in [REDACTED] by 2400 that day, you failed to report and remained UA until your subsequent surrender on 11 July 1980. On 7 August 1980, you were found guilty at

Summary Court Martial (SCM) of your periods of UA and sentenced to reduction in rank to E-1 and forty-five days of restriction.

On 11 September 1980, you received NJP for three specifications of UA (twenty-three hours, four-and-a-half hours, and eight-and-a-half hours), five specifications of orders violations (civilian clothes on restriction, possession of a marijuana pipe with less than .1g of marijuana, consuming alcohol while on restriction, being in another barracks, failing to sign out in log book), and two specifications of breaking restriction. The same day, you disclosed additional pre-service drug use (cocaine, hashish, mescaline, opium, amphetamines), in-service marijuana use, and requested a drug exemption that was subsequently denied. On 6 October 1980, you commenced a period of UA that ended in your surrender on 9 October 1980. Additionally, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct, specifically frequent involvement with civil and military authorities. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 16 October 1980, you received NJP for UA from 6 October 1980 to 9 October 1980. You then commenced a period of UA from 12 October 1980 to 13 October 1980 and a period of UA from 30 November to 1 December 1980. Subsequently, you commenced another period of UA on 19 December 1980 that ended on 30 January 1981. On 12 February 1981, you received NJP for sleeping on post. On 6 March 1981, you were found guilty at SCM of three specifications of UA. On 31 March 1981, you began substance abuse rehabilitation but were discharged the next day and recommended for administrative separation due to your refusal to participate in your treatment.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and alcohol abuse. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board, and requested immediate discharge in lieu of awaiting final action. Your request was approved and you were discharged, on 10 April 1981, and assigned an OTH characterization of service.

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 your drinking caused problems when military life became overwhelming, you continue to struggle post-discharge, and you are now homeless. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted your DD Form 149 and personal statement without any 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 SCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and 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 also considered that you were offered alcohol rehabilitation treatment by the Navy but refused to participate.

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 empathized with your current homelessness, 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,

11/24/2025

