



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

██████████
Docket No. 3752-25
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 3 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).

You entered active duty with the Navy on 22 September 1989. On 25 June 1992, civil authorities charged you with driving under the influence (DUI) of alcohol. On 29 September 1992, you received non-judicial punishment (NJP) for wrongful use of cocaine. On 8 October 1992, civil authorities convicted you of DUI. Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse and civil conviction. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to drug abuse and civil conviction and recommended you be discharged with an Other Than Honorable (OTH) discharge. The separation authority concurred with the ADB and directed your discharge by reason of misconduct due to drug abuse. On 23 June 1993, you were so discharged.

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 contentions that your

drug use was a one-time incident which resulted from your drink being spiked, your attorney stated that the amount of drugs in your system was small, this indicated your use was unintentional, you have never used drugs, and you were an exemplary Sailor that was promoted to E-3. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the character letters you provided in support of it.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJP and civil conviction, outweighed the potential 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, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. Additionally, there is no precedent within this Board's review for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit; it can neither be excused nor extenuated solely on its isolation. However, in your case, you were convicted of DUI in addition to your drug abuse. Therefore, the Board was not persuaded that you made a single mistake.

Finally, the Board also noted you provided no evidence, other than your statement, to substantiate your contentions that you innocently ingested cocaine. Thus, the Board determined the presumption of regularity applies, with regard to your drug abuse, based on the positive urinalysis, NJP, and ADB findings. The Board observed that you failed to provide substantial evidence to rebut the presumption of regularity in your case.

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 provided 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,

6/27/2025

