



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

[REDACTED]
Docket No. 5904-25
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 9 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 entered active duty with the Navy on 2 November 1977. On 22 October 1978, civil authorities convicted you of second-degree burglary. You were sentenced to two years' probation. On 3 November 1978, you commenced on a period of unauthorized absence (UA) that lasted 10 days. On 27 April 1979, you received non-judicial punishment (NJP) for larceny by making illegal phone calls valued at \$101.75 and being in a UA status for two days. On 14 June 1979, you received NJP for two specifications of absence from appointed place of duty, being in a UA status for two hours, and derelict in the performance of duty. On 28 November 1979, you received an additional NJP for two specifications of UA totaling six days, disobeying a lawful order from a petty officer, operating a government vehicle without proper license, wrongful use and possession of marijuana, and being in an unauthorized space. Consequently, you were notified of pending administrative separation action by reason of misconduct due to 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 civil conviction and recommended you be discharged with an Other Than Honorable (OTH) discharge. In the meantime, you received NJP for being UA for three days. Your commanding officer (CO) agreed with the ADB recommendation and forwarded your packet to the separation authority (SA) recommending your discharge with an OTH characterization of service. On 21 October 1981, the SA approved the CO's recommendation but suspended the OTH discharge for 12 months. On 15 November 1980, you received NJP for 35 specifications of absence from appointed place of duty. On 14 May 1981, you received an additional NJP for disobeying a superior petty officer and resisting apprehension. As a result, the SA revoked your OTH discharge suspension, and you were so discharged on 6 June 1981.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 2 November 1987, the NDRB denied your request after determining 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 and contentions that you were young, naive, and got caught up with the wrong crowd. You also claimed that you excelled in your duties while serving and you had three months remaining when discharged. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and a character letter.

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 and civil conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug related 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. The Board noted you already received a large measure of clemency when you were retained in the Navy despite your initial misconduct that included a serious civil conviction. While you may have excelled in your performing your assigned duties, the Board found ample evidence that you failed to adhere to the minimum standards of conduct throughout most of your enlistment. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should 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 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,

9/24/2025

