



Docket No. 7003-25
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 16 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 enlisted in the Navy and began active duty on 2 October 1980. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 31 August 1984¹. On 16 April 1986, you received non-judicial punishment (NJP) for wrongful use of cocaine. Consequently, you were notified of pending administrative separation proceedings by reason of misconduct due to drug abuse. You were informed that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You waived your right to consult with counsel and to present your case to an administrative discharge board. On 14 May 1986, you received your second NJP for conspiring to commit an offense, two instances of unauthorized absence, signing a false official statement with intent to deceive, operation of a vehicle while under the influence of alcohol, and breaking restriction.

¹ You received a Certificate of Release or Discharge from Active Duty (DD Form 214) for your first period of active duty.

Your commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an OTH characterization of service. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] has been counseled concerning his deficiencies in conduct and the possible ramifications of any further misconduct but persists in presenting a pattern of behavior totally incompatible with retention in the naval service.

You received your third NJP, on 2 June 1986, for a period of unauthorized absence and for breaking restriction. Afterwards, you engaged in an additional period of unauthorized absence totaling seven days. Ultimately, the separation authority approved the CO's recommendation and you were so discharged on 8 July 1986. Upon your discharge, you received a second DD Form 214 covering your second period of active duty.

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 in consideration of your prior years of service and contentions that: (1) you have discharges from more than one period of service, (2) you desire to use the Honorable characterization from your first enlistment period, and (3) the Department of Veterans Affairs (VA) informed you to apply to this Board in order to do so. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, copies of your DD Form 214s, and your Honorable discharge certificate for your period of service ending on 30 August 1984.

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 counselings and NJPs in your final enlistment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. 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.

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 your request does not merit relief.

While eligibility for VA benefits eligibility falls under the cognizance of the VA, regardless of your OTH discharge from your second enlistment period, the Board noted you are likely eligible

for VA benefits based on your first period of Honorable service. Therefore, the Board recommends you contact your nearest VA office to determine your eligibility.

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,

9/17/2025

