



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

██████████
Docket No. 7125-25
Ref: Signature Date

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██████████
██████████

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 March 2026. 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 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 on the evidence of record.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and commenced a period of active duty on 3 October 1980. After a period continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 10 November 1983.¹
2. On 1 August 1985, you received nonjudicial punishment (NJP) for one specification of disobeying a lawful order in violation of Article 91 of the Uniform Code of Military Justice

¹ Your record contains a separate Certificate of Release or Discharge from Active Duty (DD Form 214) covering your first enlistment period.

(UCMJ). Your punishment consisted of 30 days of extra duty. On 20 August 1985, you were counseled in connection with your disobeying a lawful order infraction. You were retained in the naval service but advised that subsequent violation(s) of the Uniform Code of Military Justice (UCMJ) resulting in civilian conviction could result in an administrative separation under other than honorable conditions.

3. On 2 January 1986, you received a second NJP for one specification of the wrongful use of marijuana in violation of UCMJ Article 112a. Your punishment consisted of reduction to the next inferior paygrade, forfeiture of \$424.00 pay per month for two months, and 30 days of extra duty. Prior to your NJP, on 31 December 1985, you were identified as a drug abuser and assigned to the Drug Screening Urinalysis Program.

4. A subsequent drug and alcohol abuse report indicates that you admitted to continued drug abuse following the initial urinalysis. Consequently, you were notified of your pending administrative processing by reason of drug abuse, at which time you waived your procedural right to present your case to an administrative discharge board after consulting with counsel. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of drug abuse and, on 14 February 1986, you were so discharged.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. Your discharge was based on a single positive urinalysis.
2. A single positive urinalysis should not preclude you from receiving an Honorable characterization of service.
3. An upgrade is necessary to obtain medical treatment for your legs through the Department of Veterans Affairs (VA). You are unable to receive such assistance while your current OTH remains in effect.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contention of mitigation, the Board noted you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions regarding your leg condition, the totality of your service, your need for

veterans' benefits, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your advanced age, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board determined that drug use by a service member is contrary to 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 an opportunity to correct your drug abuse but chose to continue to abuse drugs, 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Finally, absent a material error or injustice, the Board declined to summarily change a record solely for the purposes of facilitating veterans' benefits, or enhancing educational or employment opportunities. While the Board considered your age and possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from those factors.

Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In reviewing your record, the Board believes that you may be eligible for veterans' benefits which accrued during your prior period of Honorable service. However, your eligibility is a matter under the cognizance of the VA. In this regard, you should contact the nearest VA office concerning your rights, specifically, whether or not you are eligible for benefits based on your prior period of Honorable service.

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

3/25/2026

