



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

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Docket No. 7593-25

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 10 February 2026, has carefully examined your current request. 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 previously applied to this Board for a discharge upgrade but were denied on 4 September 2024. The summary of your service substantially unchanged from that addressed in the Board's previous decision.

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 for mitigation and your implied argument that you were misled from contesting the charge of drug

abuse, the Board noted you did not deny committing the misconduct and offered no evidence to support a finding that you could have successfully challenged the charge<sup>1</sup>. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and no error exists with your OTH characterization of service.

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 contentions, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your post-service record of accomplishments, your candor and remorse, your claim of ineffective assistance of counsel, 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 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. Additionally, the Board unequivocally concluded that no ineffective assistance of counsel occurred in your case. The Board determined that you would need to show that not only was there an error in your case, but that you must also demonstrate that such error prejudiced you. In other words, you must show that there was a reasonable probability that, but for the error, your discharge results would have been different. The Board unequivocally determined that you failed to meet your burden to show that your assigned counsel's performance was deficient and fell below an objective standard of reasonableness, and/or that there was a reasonable probability of a more favorable result had your alleged deficiencies actually occurred<sup>2</sup>. Thus, the Board concluded that no error materially prejudicial to your substantial rights was committed by your military counsel. Accordingly, the Board concluded that no IAC occurred and that any such suggestion or argument was entirely without merit. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice.

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

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<sup>1</sup> The Board noted you also did not deny committing drug abuse in your initial application to this Board and were found guilty at your summary court-martial.

<sup>2</sup> The Board was not persuaded that you would have received a better result had you decided to contest the charge of drug abuse at a special court-martial or administrative separation board. Your drug abuse was based on a positive urinalysis and you were found guilty at a summary court-martial. The Board considered that the burden of proof at a summary court-martial is much higher than that required for a misconduct finding at an administrative separation board.

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,

2/23/2026

