



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

██████████
Docket No. 861-26
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 you did not file your application 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 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 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.

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 began a period of active duty on 28 June 2000.
2. On 13 March 2002, you agreed to extend your original enlistment contract by an additional 12 months with a new contract expiration date of 27 June 2005. On 13 June 2003, you

again agreed to extend your enlistment by another 12 months, bringing your enlistment expiration date to 27 June 2006.

3. On 6 October 2005, you received nonjudicial punishment (NJP) for wrongful use of cocaine and were awarded punishment of reduction in rank, forfeiture of \$820 pay per month for 2 months, 45 days of extra duty, and 45 days of restriction.

4. Consequently, Commanding Officer (CO), ██████████ One ██████████) notified you that administrative separation proceedings had been initiated against you on the basis of misconduct due to drug abuse. You acknowledged your rights and waived your right to appear before an administrative separation board. On 19 December 2005, you were discharged from the Navy on the basis of drug abuse and received an Other Than Honorable (OTH) characterization of service and a reentry code of RE-4.

In your application to this Board, you express a desire for your discharge character of service be upgraded, your separation code, narrative reason for separation and reentry code be changed, and you be restored to the paygrade of E-4. You contend that:

1. While you were serving in the Navy, you were a positive, effective contributor with high standards of professionalism among the ██████████

2. As context for the drug positive that led to your discharge from active duty, you joined your neighbor on a trip that you believed was to the grocery store. You assert that your neighbor went to a house to purchase drugs. While at the house, you were mistaken for the police and threatened at gunpoint. To prove that you were not law enforcement, you used the drugs. You also state that after your neighbor and you left the house, you were stopped at a police checkpoint, drugs were discovered, the Navy was notified, and you subsequently were given a urinalysis screening which tested positive for cocaine.

3. You have maintained a law-abiding and disciplined life since your discharge from the Navy.

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 that you used drugs while under duress, the Board noted that you provided no evidence, other than your statement, to substantiate your contention. Additionally, the Board noted that you did not refuse NJP and that in ██████████ recommendation for your administrative separation, the CO stated that you offered no explanation as to why you committed the offense other than to say that you “messed up.” Based on the NJP’s finding of guilt, in consideration of the CO’s comments, and applying the presumption of regularity, the Board determined that 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 the contextual information you provided about the circumstances surrounding your drug use, your positive contributions to the Navy, the nonviolent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the passage of time since your discharge, your post-service achievements both personally and professionally, and the evidence you provided in support of your application.

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 found that your conduct showed a complete disregard for military authority and regulations. Additionally, 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 took particular note of the fact that you were serving in a position of trust within NMCB-133 as Construction Electrician. The Board was not persuaded by your contentions and determined the evidence you provided in support of your request was insufficient to overcome your misconduct of wrongful use of a controlled substance. 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. As a result, the Board determine the requested changes to your record, as a matter of clemency and/or equity, were not warranted in the interests of justice.

Accordingly, given the totality of the circumstances, the Board determined that 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,

3/27/2026

