



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

█  
Docket No: 4401-21  
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 18 October 2021. The names and votes of the panel members will be furnished upon request. Your request for clemency was 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, 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).

In December 1982, during your enlistment processing, you answered “yes” to having been involved in the use, purchase, possession or sale of marijuana, LSD, or any other harmful or habit forming drugs and/or chemicals, except as prescribed by a licensed physician. On 29 December 1982, you were granted an enlistment moral waiver.

You enlisted in the U.S. Marine Corps Reserve on 14 February 1983 and were honorably discharged after completing a period of required active service on 29 July 1983. On 1 August 1983, you began a second period of active duty. On 10 September 1983, you received nonjudicial punishment (NJP) for wrongfully possessing tetrahydrocannabinol (THC), a part or derivative of marijuana. During your NJP you pleaded not guilty to the charges and a retest of your urinalysis was requested. You were also issued a counseling warning regarding this infraction, which advised you that failure to take corrective action may result in disciplinary proceedings. You were also afforded an opportunity to submit a statement but you did not. On 11 September 1983,

you were counseled for being tardy to morning formation. On 11 December 1983, you were counseled for failing to meet the minimum performance standards of your morning drill. On 7 January 1984, as a result of the requested urinalysis, you received a second NJP for wrongfully possessing cocaine and THC. On 4 February 1984, as a result of your repeated misconduct, you were notified of your commanding officer's (CO) intent to recommend to the discharge authority that you be discharged with an other than honorable (OTH) characterization of service for misconduct, drug abuse. The notification further advised you of your right to consult with counsel. However, you failed to respond to the notification, thus, waiving your procedural right to present your case before an administrative discharge board. On 16 May 1984, a staff judge advocate review found your administrative proceedings sufficient in law and fact and documented the aforementioned failure to reply to the notification within the allotted amount of time. On 5 June 1984, the discharge authority concurred with your CO's recommendation and directed you be discharge by reason of misconduct, drug abuse. On 12 June 1984, you were discharged with an OTH.

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 contention that your four years of service were completed under honorable conditions, and desire to upgrade your discharge. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs, and administrative separation processing by reason of multiple drug related offenses, outweighed these mitigating factors. 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 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,

10/26/2021

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Executive Director  
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