



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

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Docket No: 4700-21
Ref: Signature Date



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 20 September 2021. The names and votes of the panel members will be furnished upon request. Your allegations of error or 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, 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).

During your active duty enlistment processing, on DD Form 1966, you disclosed having experimented with pot a few times. On 8 October 1982, a moral waiver was granted for you to enlist.

You enlisted in the U.S. Marine Corps (USMC) and began a period of active duty on 12 January 1983. On 6 December 1983, you received your first non-judicial punishment (NJP) for violating a written regulation. On 17 May 1984, you received a second NJP for being disrespectful in language and deportment. You were issued a counseling entry documenting this infraction and your frequent involvement with military authorities. This entry further explained you were being retained in the USMC but subsequent violation(s) of the UCMJ or conduct resulting in civilian conviction could result in an administrative separation under other than honorable conditions (OTH). On 10 July 1984, you received a third NJP for larceny. In February 1985, you tested positive for tetrahydrocannabinol (THC), the main psychoactive compound in cannabis. On 14 March 1985, you received a fourth NJP for wrongful use of a controlled substance (THC). In March 1985, you again tested positive for THC and on 3 April 1985, you were found guilty at a

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summary court-martial (SCM) for wrongful use of marijuana and for failure to obey a written order. You were sentenced to confinement at hard labor for 30 days and forfeiture of \$409.00 pay per month for one month.

On 13 May 1985, you were notified of impending administrative separation proceedings with a recommendation of an other than honorable (OTH) discharge characterization of service due to drug abuse. At this time you waived your right to consult with counsel and to have your case heard before an Administrative Discharge Board. On 30 May 1985, a staff judge advocate reviewed your case and found it sufficient in law and fact. On 5 June 1985, the discharge authority directed you be separated with an OTH for misconduct due to drug abuse. On 20 June 1985, you were discharged.

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 and your contention that the only blemish in your military record was for use of marijuana and the amount of marijuana was truly insignificant. The Board further noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct 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 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,

9/30/2021

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Executive Director

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