



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

■  
Docket No: 2423-22  
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 11 April 2022. 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, 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).

You enlisted in the Navy and began a period of active duty on 12 October 1983. On 2 April 1984, you received nonjudicial punishment (NJP) for sleeping while on watch. On 16 November 1984, you received a second NJP for wrongful use of two different controlled substances- marijuana and amphetamines. On 3 December 1984, you were counseled for unsatisfactory conduct and performance as evidence of your previous NJPs. You were advised that failure to take corrective action could result in administrative separation. On 23 January 1985, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you elected to waive all your procedural rights. Subsequently, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. On 19 February 1985, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to drug abuse. On 26 February 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 contention that the use of recreational cannabis is authorized in several states and also used for medical reasons, that you have been recovering from drug addiction since 1996, that you elected to use marijuana in two occasions as a result of hanging around with the wrong crowd, and that you never got assistance for your mental or drug addiction. The Board also considered your statement in support of a claim to the Department of Veterans Affairs. 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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined it showed a complete disregard for military authority and regulations. Further, the Board considered the fact that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. As a result, the Board determined your conduct constituted a significant departure from that expected of a sailor and continues to warrant an OTH characterization. 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,

5/1/2022

