



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

Docket No: 3359-22  
10859-18  
Ref: Signature Date

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, considered your application on 18 May 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, 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 enlisted in the Marine Corps and began a period of active duty on 15 January 1979. You subsequently completed this enlistment with an Honorable characterization of service on 9 September 1981 and immediately reenlisted. On 5 May 1983, you received non-judicial punishment (NJP) for wrongful use of cannabinoid. On 25 May 1983, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to drug abuse. You were advised of, and elected, your procedural right to consult with military counsel. After consulting with military counsel, you elected to waive your right to an administrative discharge board (ADB) and submit a statement in rebuttal of your

proposed separation. Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation and directed your administrative discharge from the Marine Corps with an OTH characterization of service by reason of misconduct due to drug abuse and, on 20 July 1983, you were so discharged.

You previously applied to this Board for an upgrade to your characterization of service but were denied on 7 January 2020.

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 character of service. The Board also considered your contentions that: (1) your OTH discharge was issued due to a misdemeanor; (2) you were not offered any legal representation; and (3) you were pushed to sign a lot of documents with no assistance to understand what you were signing. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. While the Board considered your contentions, the Board noted you your record shows you were afforded the requisite due process during your administrative separation processing and you provided no evidence to support your allegations. In addition, the Board concluded your wrongful use of a controlled substance met the regulatory requirements for a drug abuse separation and an OTH characterization. As a result, the Board concluded your conduct was a significant departure from that expected from a Marine and still warrants an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined 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,

6/9/2022



Executive Director

Signed by: 