



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

**[REDACTED]**  
Docket No: 6944-22  
Ref: Signature date

**[REDACTED]**

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 31 October 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 Marine Corps and began a period of active duty on 5 August 1968. On 27 August 1968, you received nonjudicial punishment (NJP) for willful disobedience of a lawful order. On 24 May 1969, you were convicted by summary court-martial (SCM) for two instances of sleeping while posted as a lookout, and failure to obey an order by playing your radio on while on post. You were sentenced to reduction to the rank of E-1, confinement at hard labor, and forfeiture of pay. Between 20 April 1970 to 22 July 1970, you had two periods of unauthorized absence (UA) totaling 18 days, 14 hours, and 43 minutes. On 3 November 1970, you were convicted by SCM for a period of UA. You were sentenced to reduction to the rank of E-1, confinement at hard labor, and forfeiture of pay. On 10 December 1970, you were notified of the initiation of administrative separation proceedings by reason of unfitness due to use of marijuana and LSD. On the same date, you requested a hearing by an Administrative Discharge Board (ADB). On 18 December 1970, your commanding officer recommended an Other Than Honorable (OTH) characterization of service by reason of wrongful use of two

controlled substances-marijuana and LSD. On 14 January 1971, the ADB recommended an OTH discharge characterization due to wrongful use of a controlled substance-marijuana. On 18 January 1971, your administrative separation proceedings were determined to be sufficient in law and fact. On 16 February 1971, the separation authority approved and ordered your OTH discharge characterization to be held in abeyance pending an investigation for possession of marijuana and other possible drugs while on base. On 23 March 1971, you were convicted by general court-martial (GCM) for five instances of wrongful possession, transfer, and introduction of two controlled substances-marijuana and hashish. You were sentenced to forfeiture of pay in the amount of \$100.00 for three months. On 25 March 1971, the separation authority approved and ordered an OTH discharge characterization by reason of unfitness due to wrongful use of a controlled substance. On 30 March 1971, you were so discharged.

On 11 August 1977, the Department of Defense Review Program (Special) approved an upgrade to your discharge characterization upgrade from OTH to General (Under Honorable Conditions). Subsequently, the Navy Discharge Review Board (NDRB) issued an amendment to a decisional document in which you were granted a General (Under Honorable Conditions). On 1 July 1997, this Board concurred with the NDRB decision which resulted in the issuance of a General (Under Honorable Condition) characterization by reason of unfitness.

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 for a change to your separation code and contention that you just found out that you could apply for an upgrade. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, SCMs, and GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included multiple drug offenses. The Board determined that illegal drug use by a Marine is contrary to Marine Corps core values and policy, renders such Marines unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Finally, the Board determined that you already received a large measure of clemency when your original OTH discharge was upgraded to General (Under Honorable Conditions) despite the severe nature of your misconduct. As a result, the Board concluded that significant negative aspects of your active service outweigh the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. 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,

11/28/2022



Executive Director

Signed by: █