



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

█  
Docket No. 1137-23  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your currently request has been carefully examined by a three-member panel of the Board, sitting in executive session on 20 March 2023. 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You previously applied to this Board for a discharge upgrade and were denied on 2 October 2019.

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 contentions that: (1) your administrative officer said your discharge would be upgraded to a General (Under Honorable Conditions) (GEN) characterization, (2) you were a young man, (3) when you and a friend returned stateside from █ you accompanied your friend to his ex-wife's hometown and you both were late returning to base, (4) your friend was also late in returning his rental car, which you were driving, when pulled over by █ police and arrested for driving without a driver's license, (5) once released from jail you were homeless and did not know how to return to base, (6) someone told you to report to any recruiting station and you would be assisted, (7) prior to returning to base you reported to sick bay due to severe bed bugs and were

hospitalized for two days, (8) the day prior to returning to the states you were court-martialed due to a criminal investigation division (CID) report involving larceny of your roommate's money (\$200) for which you admitted guilt as a result of pressure from CID and in order to protect your friends [two soldiers] who were the actual thieves, (9) you were unaware of your other AWOLs (absence without leave) as you were on barracks duty until your discharge, (10) regarding the gram of marijuana, it is impossible to "get a gram out of ashes and there was nothing to show one gram of marijuana when there was nothing but ashes," and (11) post-discharge you have not been in trouble with the law nor have you spent any time in jail. For purposes of clemency and equity consideration, the Board noted you provided advocacy letters that described post-service accomplishments.

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 six NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it included a drug offense. The Board determined that illegal drug possession by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that marijuana possession in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Finally, the Board noted you provided no evidence to substantiate your contentions. As a result, the Board concluded our conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you provided in mitigation, 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

4/4/2023

[REDACTED]