



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

█  
Docket No. 5199-23

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.

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 18 September 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, 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 Naval Reserves and began a period of active duty on 26 March 1979. On 11 December 1982, you were temporarily suspended from duties involving flying as a crewmember due to positive urinalysis. On 27 December 1982, you received a permanent revocation and were disqualified from duties involving flying. Subsequently, your Naval Aircrewman designator was cancelled and your privileges to wear the Aircrew Breast Insignia were rescinded. On 22 January 1983, you received nonjudicial punishment (NJP) for disobeying a lawful by failure to obey his responsibilities concerning marijuana, narcotics, and other controlled substances. On 25 March 1983, you were discharged with an Honorable discharge characterization of service by reason of completion of active duty service and assigned an RE-4 reentry code. On 25 March 1985, you were discharged from the Naval Reserves with an Honorable discharge characterization of service and not recommended for reenlistment.

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 an RE-1 reentry code and contentions that: (a) you were never afforded the opportunity to have your case heard by an Administrative Discharge Board or advised of any language being placed on your Certificate of Release or Discharge from Active Duty (DD Form 214) stating that you are ineligible for reenlistment, (b) you had an exceptional career in the Navy and performed all tasks and requirements to the best of your abilities, and (c) you have proven your trustworthiness and your ability to serve for 30 years as a professional firefighter and paramedic. For purposes of clemency and equity consideration, the Board noted you submitted copies of a Letter of appreciation, Emergency Management Certification, Letter of Completion of U.S. Fire Administration's National Fire Academy, College Transcript, Letter of Completion of Requirements for Planning Section Chief, Letter of Recognition, Letter of All-Hazards Incident Management Qualification Credentials Awarded dated, and your Paramedic Certificate.

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug-related offense. The Board determined that illegal drug use 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 use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of your unit. Finally, the Board noted you provided no evidence to substantiate your contentions that you were uninformed regarding your reenlistment code. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. After reviewing your evidence, the Board determined it was insufficient to overcome the presumption of regularity in your case. As a result, the Board concluded your misconduct continues to warrant an RE-4 reentry code. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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 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, \_\_\_\_\_

10/4/2023

