



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

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Docket No. 6693-23  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 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, 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).

During your enlistment processing, you disclosed pre-service traffic infractions and marijuana use and were granted an enlistment waiver. You enlisted in the Navy and began a period of active duty on 15 May 1997. On 20 May 1998, you received nonjudicial punishment (NJP) for the wrongful use and possession of marijuana. On 28 May 1998, you were notified of your pending administrative processing by reason of drug abuse, at which time you waived your right to consult with military counsel and to have your case heard at an administrative discharge board. On 9 June 1998, your Commanding Officer recommended to the Separation Authority that you be discharged with an Other Than Honorable (OTH) characterization of service by reason of drug abuse. On 2 July 1998, you were so 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 desire to upgrade your characterization of service and your contentions that: (1) you enlisted after having referred two people, which designated you as

an E-2 out of boot camp, (2) after a full year of making \$252.00 per pay period, you received a paycheck for \$48.00 and disbursing claimed you were overpaid for an entire year and \$48.00 would be your compensation until further notice, (3) you enlisted with a car and insurance payments and eventually lost your vehicle because you could no longer afford to make payments, (4) after losing your vehicle, you began applying for civilian jobs closer to home, (5) when you found one, you submitted a written confession disclosing the use of marijuana, (6) when you did not submit a urine analysis that tested positive for any substance it led to a meeting between the CO and XO, which ultimately left you with an OTH discharge, (7) had this not occurred you would still be in the Navy, (8) you currently hold a secret clearance through the Army's chemical personnel reliability program as an operator under the chemical weapons treaty, and (9) you have come a long way since you were 19 and you feel you are worth granting this request. For purposes of clemency and equity consideration, the Board noted you did not provide documentation supporting your contended 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, 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 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 noted you provided no evidence to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH. 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. 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,

9/26/2023

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