



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

█  
Docket No. 7560-23  
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 13 November 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).

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 U.S. Marine Corps and began a period of active duty on 11 June 1981. From 9 February 1982 to 4 April 1983, you received four nonjudicial punishments (NJPs) for infractions that included disobeying lawful orders, sleeping on post, and unauthorized absence (UA). You were subsequently notified of your pending administrative separation processing by reason of pattern of misconduct (POM), at which time you elected your right to have your case heard before an administrative discharge board (ADB). An ADB was convened on 29 September 1983, and recommended you be discharged with an Other Than Honorable (OTH) characterization of service for your misconduct. However, on 8 December 1983, as a result of your continued misconduct, you were found guilty at a special court-martial (SPCM) of two specifications of UA, willfully disobeying a commissioned officer, three specifications of

willfully disobeying noncommissioned officer, disrespect to a noncommissioned officer, and wrongfully possessing and selling marijuana. You were sentenced a Bad Conduct Discharge (BCD), confinement at hard labor for six months, forfeiture of \$382.00 pay per month for six months, and to be reduced in rank to E-1. After your sentence was affirmed, on 20 December 1984, you were discharged with a BCD.

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 contentions that: (1) you were not counseled regarding your job description duties and responsibilities, (2) you were never informed of your right to appeal, and (3) you joined with the intent of serving your country and instead faced discrimination and heavy racism. For purposes of clemency and equity consideration, the Board noted did not provide 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 NJPs and SPCM, outweighed these mitigating factors. In making this finding the Board considered the seriousness of your misconduct and the fact that it included drug offenses. The Board determined that illegal drug involvement 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. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of your command. Finally, the Board noted that you did not provide any 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 a BCD 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 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,

11/29/2023

