



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

█  
Docket No. 1473-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 22 April 2024. 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 this 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 United States Navy commenced a period of active duty on 26 June 1963. During your time on active duty, you received three non-judicial punishments (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 91, for failure to obey a lawful order and using disrespectful language, Article 128, for assault, and Article 92, for failure to obey a lawful order. You were released from active duty and transferred to the reserves at the end of your obligated service with an Honorable characterization of service.

On 2 November 1966, you began a period of service in the Navy Reserves. On 21 April 1967, you were convicted of Possession of Marijuana in the Superior Court, █. The

record indicates that, at the time of your arrest, you reached out to police for assistance, stating that you were having a "bad trip" on LSD. When officers arrived to administer aid, they found a concealed bag containing marijuana on your premises.

On 24 July 1967, you were notified that you were being processed for an administrative discharge by reason of conviction by civil authorities. After consulting with qualified counsel, you elected to present matters in your defense. On 11 October 1967, an administrative separation board convened and, by a vote of 3 to 0, found that the basis for separation was met and recommended your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. On 16 January 1968, you were discharged from the Navy Reserves for misconduct due to your drug abuse and assigned GEN characterization of service and an RE- 4 reentry code.

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: (1) your desire to upgrade your discharge characterization, (2) your assertion that marijuana is legal in dozens of states, (3) your contention that the president wants to drop all federal charges involving cannabis, (4) your desire to utilize GI Bill education benefits. For purposes of clemency consideration, the Board noted that you did not provide evidence related to post-service accomplishments or character letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your civilian conviction, outweighed these mitigating factors. The Board considered the seriousness of your misconduct and the fact that it involved a drug offense. Further, the Board also considered the likely discrediting effect your conviction had on the Navy. The Board determined that illegal substance abuse is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates and members of the community. Further, contrary to your assertion, 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. Additionally, such misconduct places an undue burden on your chain of command and negatively impacts mission accomplishment. The Board highlighted that GEN characterization is appropriate when significant negative aspects of a Sailor's conduct outweighs the positive aspects. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board felt that the ADSEP board already granted you clemency by recommending a GEN discharge vice an Other than Honorable discharge, which would have had a much more negative impact on your veterans' benefits. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans benefits or enhancing educational or employment opportunities.

For these reasons, the Board concluded that GEN characterization remains the appropriate characterization of service in your case. 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 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,

4/30/2024

