



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

█  
Docket No. 1631-24  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 27 March 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 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).

You entered active duty with the Navy on 26 April 1981. On 27 January 1983, you received non-judicial punishment (NJP) for failure to go to appointed place of duty and two specifications of making a false official statement. On 7 October 1983, you received NJP for wrongful possession and use of marijuana. On 25 June 1984, you received a medical evaluation, which determined you were not drug or alcohol dependent. On 28 June 1984, you received NJP for wrongful use of marijuana. Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct and recommended you receive an Honorable discharge. However, on 31 October 1984, you received an additional NJP for wrongful use of marijuana and unauthorized absence (UA) totaling two days. As a result, the separation authority (SA) disagreed with the ADB and directed an Other Than Honorable (OTH) discharge by reason of misconduct due to drug abuse. On 28 November 1984, 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 discharge and contentions that you would like an upgrade based on the President's pardon for simple drug possession and your post-discharge accomplishments. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation of your 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 your misconduct as evidenced by your NJPs, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved several drug offenses. 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 illegal drug use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board also considered the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board noted that the Presidential forgiveness for drug offenses is not applicable to military personnel. Finally, the Board considered that you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; even after an ADB recommended an Honorable discharge for you.

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 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 upgrading your characterization of service. Accordingly, given the totality of the circumstances, the Board determined 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,

4/14/2024

