



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

█  
Docket No. 1735-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 15 July 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 enlisted in the Navy and commenced a period of active duty on 7 January 1980. During your service, your misconduct led to discipline at each of your assigned duty stations. Specifically, on 21 September 1981, you received your first nonjudicial punishment (NJP) onboard █ for failure to obey a lawful order. In 1982 and 1983, you received two additional NJPs, onboard █, for incidents of unauthorized absence (UA) and missing ship's movement.

On 22 February 1984, you reported for duty at █ and completed drug and alcohol abuse prevention education and alcohol/drug education courses. On 15 September 1984, you were issued administrative remarks retaining you in the naval service, documenting your previous NJPs, and advising you that further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. Subsequently, you tested positive for THC on two separate occasions in May and July 1985. You refused NJP and, although a court-martial was contemplated, delays led to your commanding officer's (CO) decision to proceed with administrative action. Your CO's

comments further capture you were examined by a medical officer and not considered to be dependent on drugs or alcohol.

On 24 July 1985, you received NJP for three specifications of failing to go to your appointed place of duty and UA. Consequently, you were notified of your pending administrative processing by reason of misconduct-pattern of misconduct and drug abuse, at which time you elected your right to consult with counsel but waived your right to have your case heard before an administrative discharge board. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service for frequent involvement of a discreditable nature with civil or military authorities and, on 10 October 1985, 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 your contentions that: (1) you would like to apply for Department of Veterans' Affairs benefits, and (2) post-discharge you have been a productive citizen to your community. Additionally, the Board noted you checked the "PTSD" box on your application but chose not to respond to the 26 February 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included two 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 marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, 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. Finally, the Board considered that you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct.

As a result, the Board concluded your conduct constituted a significant departure of that expected of a service member and continues to warrant an OTH. 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 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,

7/29/2024

