



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

█  
Docket No. 2077-24  
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 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 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 Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted in the Navy and commenced active duty on 7 February 1986. On 30 December 1986, you received non-judicial punishment (NJP) for wrongful use of marijuana following your positive urinalysis for THC during a command sweep. Consequently, on 15 January 1987, you were notified of pending administrative separation processing with an Other Than Honorable (OTH) discharge by reason of misconduct due to drug abuse. You elected to consult with legal counsel and requested an administrative discharge board (ADB). However, on 30 January 1987, before the ADB could be held, you were again found to be positive for THC in a mandatory follow-up urinalysis. Additional follow-up testing further showed your urine contained THC as of 2 February 1987, 11 February 1987, 19 February 1987, 26 February 1987, 5 March 1987, and 19 March 1987.

In addition to your apparent continuous use of marijuana during this period, counseling records further show that you stated you used THC in order to get yourself a discharge sooner. Additionally, on 12 February 1987, after a medical drug screening found you to be

psychologically dependent on marijuana, you were offered drug abuse treatment at a VA facility, which you declined.

The ADB, ultimately held on 27 February 1987, found that you had committed misconduct and recommended that you be discharged under OTH conditions by reason of misconduct due to drug abuse. The separation authority concurred with the ADB and approved and directed an OTH discharge by reason of misconduct due to drug abuse. On 25 May 1987, 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 change your discharge characterization of service and your contentions that you need medical assistance and counseling. Additionally, the Board noted you checked the "PTSD" box on your application but chose not respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy 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 NJP for wrongful use of marijuana and multiple positive urinalysis results for THC, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple 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 marijuana 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 repeated misconduct had on the good order and discipline of your command. Further, the Board noted you served less than a year before being caught abusing drugs and intentionally continued to abuse drugs to expedite your discharge from the Navy. 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.

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 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,

8/9/2024

