



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

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Docket No. 4195-24  
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 28 June 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 to 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Navy and began a period of active duty on 31 January 2002. However, on 19 June 2003, you were convicted by a Special Court-Martial (SPCM) for multiple violations of the Uniform Code of Military Justice (UCMJ), to include Article 86, for an absence without authority from 29 December 2002 through 8 January 2003, two specifications of Article 92, for failure to obey a lawful general order by wrongfully possessing drug abuse paraphernalia of two glass pipes, and for wrongfully failing to obey a lawful Military Protective Order (MPO), Article 112a, for wrongful use of marijuana on divers occasions, and an additional charge under Article 112a for wrongful possession of approximately .53 grams of marijuana. Your sentence included 90 days of confinement, reduction to the paygrade of E-1, and a Bad Conduct Discharge (BCD).

The findings and sentence of your SPCM were affirmed upon appellate review, and you were so discharged on 23 September 2004.

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 to “Honorable” and change “the Narrative Reason for Separation, the Separation Code, and the Reentry Code” to reflect “Secretarial Authority” with respect to the basis of your discharge. You also requested any other equitable or just relief the Board found appropriate with respect to your contentions that you were pending medical discharge after you had a seizure and began self-medicating with marijuana. You state that you regret your misconduct and poor choices but believe in accountability and second chances, you feel that you have been sufficiently punished for your mistake and have grown as a person, to include opening restaurants and training staff as a manager in the years since your discharge, and you also coach youth sports and mentor youth to create goals and consider the consequences of their actions. For purposes of clemency and equity consideration, the Board noted you submitted a personal statement, your SPCM records, your evaluation report, five letters in support of your post-discharge character, and references regarding Presidential Marijuana Reform.

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 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. Additionally, the Board determined your conduct showed a complete disregard for military authority and regulations.

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. While the Board carefully considered the evidence you submitted in mitigation and appreciates your acceptance of responsibility, even in light of the Wilkie Memo and reviewing the 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,

7/20/2024

