



**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. 4719-24  
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 6 September 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).

You enlisted in the Marine Corps after receiving a waiver for pre-service marijuana use during your time in the Delayed Entry Program (DEP) and began a period of active duty on 21 August 1996. An administrative entry in your record, on 8 November 1996, documents that you were the Recruit honor graduate after completing basic training.

On 29 September 1997, you were subject to nonjudicial punishment (NJP) for multiple serious violations of the Uniform Code of Military Justice (UCMJ) to include: Article 86, for absenting yourself without authority with the intent to avoid field exercises, Article 107, for making a false official statement that you had had your wisdom teeth pulled but your chit to remain sick in quarters (SIQ) was in the company office, Article 115 for malingering by feigning dental distress to avoid duty, and, Article 134 for malingering by reporting to sick call for food poisoning in order to receive a chit to remain SIQ during your company's annual training qualification when

you were later observed participating in sports during your SIQ status. Less than a month later, you received a second NJP for a violation of Article 134 due to breaking restriction which had been awarded as punishment during your first NJP.

On 10 April 1998, you made a voluntary statement to criminal investigators regarding your alleged drug use. You later received a third NJP for a violation of the UCMJ under Article 112a for wrongful use of crystal methamphetamine and marijuana. In addition to your NJP punishment and referral to substance abuse counseling for screening, you were notified of processing for administrative separation by reason of misconduct due to drug abuse. You elected to waive your rights incident to this processing and were recommended for separation under Other Than Honorable conditions. While final action on this recommendation was still in process, you absented yourself without authority from 11 August 1998 until 13 September 1998. This resulted in your fourth and final NJP for a violation of Article 86 on 15 October 1998. Your separation under OTH conditions for misconduct due to drug abuse was approved and you were so discharged on 16 October 1998.

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 Memos. These included, but were not limited to, your desire to upgrade your discharge and change your narrative reason for separation to "Secretarial Authority." The Board also considered your contentions that you were the honor graduate from your recruit training and that you receive a meritorious mast for your performance at Marine Combat Training. You submit via personal affidavit that you were hazed by your crew chief, that you were forced to do degrading tasks, and that you were punched, slapped, and belittled; however, your motivation and attitude were negatively impacted by these incidents and by your command's indifference to your treatment. You point out that you confessed to drug use when questioned during the criminal investigation and admitted to wrongdoing. You believe that your post-discharge accomplishments reflect that you have redeemed yourself in the nearly three decades since your discharge. For purposes of clemency and equity consideration, you submitted a brief from your legal counsel, your personal affidavit, a copy of the CID investigation into your drug abuse misconduct with the statements you made at that time, your bachelor's degree certificate, your résumé, two character letters, and customer comments regarding the quality of your professional services.

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 and admission of drug abuse, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. Further, the Board was not persuaded by your arguments that your misconduct amounted to "youthful indiscretions" and determined that your conduct showed a complete disregard for military authority and regulations. Finally, the Board observed 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 from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you submitted in mitigation and commends you for your

