



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

██████████  
Docket No. 7597-24  
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 11 October 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 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 US Navy Reserves and commenced a period of active service from 23 March 1994. On 8 September 1994, you received non-judicial punishment (NJP) for wrongful use of marijuana, failure to obey a lawful regulation by wrongfully possessing drug paraphernalia, and five specifications of unauthorized absence (UA). Consequently, you were notified of the initiation of administrative separation proceedings as a result of misconduct due to drug abuse and commission of a serious offense. You waived your procedural rights, and the separation authority approved and directed your discharge with an Other Than Honorable (OTH) character of service by reason of misconduct due to the commission of a serious offense. On 3 October 1994, 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 the characterization of service and your contentions that you were not offered the opportunity to rehabilitate, that policy and laws have changed, and you were never assigned legal counsel for your court-martial or explained your

rights. For purposes of clemency and equity consideration, the Board noted you provided a personal statement, documentation describing post-service accomplishments, and an advocacy letter.

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug abuse. 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 and possession in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contention that your rights were not explained to you. The Board noted that you acknowledged your rights in a state of awareness on 9 September 1994. Therefore, the Board was not persuaded by your contentions<sup>1</sup>.

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<sup>2</sup>, 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 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,

11/5/2024  
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<sup>1</sup> The Board also found no evidence you were subject to a court-martial.

<sup>2</sup> While the Board commends your post-discharge completion of multiple courses, the Board observed that you were incarcerated during that time and remain incarcerated.