



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

Docket No. 7994-24
Ref: Signature Date

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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 18 December 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, 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 Marine Corps and began a period of active duty on 1 January 1996. On 2 January 1996, you were issued a statement of understanding regarding the Marine Corps policy concerning the use of illegal drugs. On 20 August 1996, you received non-judicial punishment (NJP) for wrongful use of a controlled substance. On 20 August 1996, you were issued an administrative remarks (Page 11) counseling concerning your illegal drug involvement and usage. On 30 September 1996, you received a Special Court-Martial (SPCM) for wrongful use of a controlled substance, lysergic acid diethylamide. Consequently, you were found guilty and sentenced to reduction in rate and a bad conduct discharge. You were served via certified mail on 23 December 1997, and after 60 days, the appellate review was considered complete. The approved sentence to reduction to pay-grade E-1 and a bad-conduct discharge, as promulgated in Commanding Officer, [REDACTED], [REDACTED], [REDACTED]

█, Special Court-Martial Order No. █, dated 1 April 1997, was affirmed in NMCCA No. █. You were so discharged on 9 March 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 Memo. These included, but were not limited to, your desire to upgrade your discharge character of service and contentions that you (1) are requesting this correction to be made after accepting the severe punishment, (2) you have lived with this punishment for years, (3) you understand that you were made an example of by the Marine Corps, (4) you were young and easily influenced, (5) you had many achievement while you served, (6) you have taken this experience and training very seriously, (7) you used the valued gained while in service to better yourself and help people, (8) you became an instructor for your union and a youth pastor for your church, (9) you were vice president of sales for the western U.S. for █, (10) you have not been able to take credit for being a Marine out of shame, (11) you ask that your discharge be upgraded to help with your mental health treatment (12) you went through hazing in your unit and you are being treated for PTSD. For purposes of clemency and equity consideration, the Board considered that you did not provide any documentation in support of your application.

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 SPCM, 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. The Board noted that drug use in any form is against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided opportunities to correct your conduct deficiencies during your service; however, you continued to commit additional misconduct. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command. Finally, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

As a result, the Board determined your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD characterization. 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 Memos and reviewing the record liberally and 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,

2/5/2025

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Executive Director

Signed by: █