



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

██████████  
Docket No. 8031-24  
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 25 November 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).

During your enlistment processing you disclosed drug use and were granted an enlistment waiver. You enlisted in the Navy and commenced a period of active duty on 16 August 1978. On 30 March 1983, you completed a period of Honorable service and immediately reenlisted.

On 4 August 1983, you received nonjudicial punishment (NJP) for the wrongful use of marijuana. Consequently, you were notified of your commanding officer's intent to recommend you be administratively discharged for misconduct due to drug abuse adding, "[Petitioner's] professional performance while attached to this command has been below average. He entered the Naval service with a drug waiver in 1978. His prognosis for continued drug related problems is high and his potential for future useful service is questionable." Subsequently, you elected your right to consult with counsel and waived your right to present your case to an administrative discharge board. On 19 September 1983, you were diagnosed as drug dependent and enrolled in

command level counseling. It was also recommended you be offered Level III treatment through the Department of Veterans Affairs. Ultimately, on 30 November 1983, you were discharged with an Other Than Honorable (OTH) characterization of service by reason of misconduct-drug abuse (use).

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 your first discharge was Honorable and, while you understand you made a mistake for testing positive for a drug test, you would like your first period of Honorable service to be recognized when considering your request. For purposes of clemency and equity consideration, the Board noted you did not provide post-service accomplishments or character letters in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined 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 that it included a drug offense. 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 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 noted your prior Honorable discharge was duly recognized and you were issued an Honorable discharge certificate to formally document your initial enlistment period.

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,

12/30/2024

