



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

██████████
Docket No. 8553-24
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.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 13 January 2025. 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 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 their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board for a discharge upgrade and were most recently denied on 27 February 2024. The facts of your case remain substantially unchanged.

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 change your discharge characterization of service to Honorable and change of narrative reason for separation to Secretarial Authority. You content that: 1) You served honorably for two years prior to your sole indiscretion, during which

you were an outstanding member and valuable asset of the U.S. Navy with unlimited potential, and that in your sole act of indiscretion, you made an uncharacteristically bad decision and were discharged for this single act; 2) You were 18 when you made the bad decision to smoke Hashish with another military member, the other member was not only smoking it, but was selling it to others on the ship, during the related investigation, you admitted to smoking Hashish, but did not know the other Sailor was selling it as well, and as a result you were court-martialed and took the fall for the other Sailor selling 7 grams of Hashish, for which the other Sailor got an OTH, while you got a BCD and 60 days in the brig; 3) You know your decision was not becoming of your rank or position, you know you acted in violation of the Navy's zero-tolerance policy, you are remorseful for participating in illegal drug use, and you now realize your actions were immature and irresponsible; 4) However, you were discharged over 36 years ago, you have repaid your debts to society, you are still living with the consequences of your mistake, you have demonstrated the ability to overcome and move forward, since discharge you have no criminal record, no involvement in drugs, no types of alcohol abuse, and no "run-ins" with the law, you have been happily married for 16 years, you have had brain and quadruple bypass open heart surgery, following discharge you worked as a union glazer, working on high-rise Buildings, from there you transitioned to the Mechanist trade where you learned to create medical equipment with very tight tolerances for a surgical equipment supplier, that you eventually took your skills to ██████████ to make aircraft equipment, which led you to become a technical machinery specialist and specialist in custom-performance marine engine building and maintenance, that you also own and rent properties in ██████████, and that you are a licenses real estate agent in ██████████; and 5) In conclusion, that you respectfully request clemency and have made good efforts to show candor, acceptance, and responsibility for your BCD, and that the reason for your discharge does not define who you are as a person, nor does it accurately represent the strong values you have continuously lived by. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application, including your legal brief with exhibits.

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 conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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 that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Finally, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. Additionally, there is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. Regardless, the Board found your conduct of introducing and distributing drugs onboard a naval vessel to inexcusable and serious enough to negatively affect the good order and discipline of your command.

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 your post-service accomplishments, 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,

2/5/2025

Executive Director

Signed by: