



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

██████████
Docket No. 9210-24
Ref: Signature Date

████████████████████
████████████████
████████████████

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 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 on the evidence of record.

You were granted an enlistment waivers for minor traffic infractions and marijuana use. You enlisted in the U.S. Navy and began a period of active duty on 15 January 1980. On 16 January 1980, you received drug abuse orientation. On 17 June 1981, 8 September 1981, and 12 October 1982, you were counseled regarding controlled substances and their adverse impact, your lack of respect towards NCO's, your poor military appearance and lack of responsibility, and your involvement with military authorities in a drug related area. On 13 May 1982, you received NJP for wrongfully using marijuana. On 27 December 1982, you received your second NJP for wrongfully using marijuana.

Unfortunately, the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Marine Corps on 13 January 1983 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is “Misconduct – Drug Abuse (with admin discharge board),” and your separation code is “GKK1.”

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 and your contentions that: (1) 41 years ago, you served your country honorably for two years, 12 months, and 27 days, yet you feel deeply betrayed by the unfair treatment you endured during your service, (2) at your court-martial, you had no legal representation, no one from your company present, and only one Marine you knew in the room—none of whom were enlisted like you, (3) there were no people of color, and you felt alone and unsupported, (4) months before the trial, you were accused of a positive urine test and denied the opportunity to consult a lawyer or properly defend yourself, (5) despite your record of good conduct, you were stripped of your rank (from LCpl to PFC), lost three months of pay, endured weeks of night watch, and were given only two hours to leave the base, (5) this unfair process not only cost you the Good Conduct Medal, which you were to receive on 27 Dec 82, but also led to a discharge status that prevents you from accessing VA benefits, (6) you are a veteran who served faithfully, and you deserve to wear this honor with pride and, (7) you seeks justice in the form of corrections to your record that acknowledge your service, restoration of your Good Conduct Medal, and the Honorable discharge you earned. You add, your country let you down, but you still believe in justice and fairness. Additionally, the Board noted you checked the “PTSD” box on your application but chose not to respond to the 12 September 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that 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. Additionally, the Board noted you were provided several opportunities to correct your conduct deficiencies but continued to commit additional misconduct, which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits or enhancing educational or employment opportunities. Finally, the Board determined that an Honorable discharge was appropriate only if the member’s service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded that your

discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

Therefore, 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 the 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 is attached 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,

2/7/2025

