



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

██████████
Docket No. 9402-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 February 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).

You entered active duty with the Navy on 20 October 1980. Prior to enlisting, you received an enlistment waiver for a preservice use and possession of marijuana. On 19 February 1982, you received non-judicial punishment (NJP) for wrongful use of marijuana. On 3 June 1982, you received NJP for absence from appointed place of duty. On 9 February 1983, you tested positive for cocaine. On 11 February 1983, you were formerly counseled on your drug involvement and warned that further involvement could result in processing for an administrative separation. On 18 February 1983, you received a Counseling and Assistance Center (CAAC) Evaluation and denied any drug and alcohol abuse. On 3 March 1983, you tested positive for marijuana. On 4 March 1983, a Substance Abuse Report (SAR) noted you refuse to indicate your frequency of abuse, period of usage, and the location where used. On 9 March 1983, you received NJP for wrongful use of marijuana. Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB).

On 8 June 1983, a SAR noted you successfully completed a CAAC outpatient program and showed a positive attitude toward yourself and the Navy. On 24 June 1983, the ADB found that you committed misconduct and recommended you receive a General (Under Honorable Conditions) (GEN) characterization of service. The separation authority concurred with the ADB and directed a GEN discharge by reason of misconduct due to drug abuse. On 4 August 1983, you were so discharged.

Post-discharge, you applied twice to the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 30 January 1984 and 27 June 1991, the NDRB denied your requests after determining that your discharge was proper as issued.

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 and contentions that you were young, did not understand the consequences of smoking marijuana while serving, and that you have been trouble free and drug free since your discharge, received your Master's degree, worked for the ██████████ government, and you would like to receive veterans' benefits. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application¹.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your NJP and positive urinalysis, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved drug offenses. The Board determined that illegal drug use or possession 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. Further, the Board observed that you were given an opportunity to correct your conduct deficiencies and chose to continue abusing drugs; which ultimately led to your GEN discharge. Additionally, 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 opportunities². Finally, the Board noted you were fortunate to receive a GEN discharge based on your history of drug abuse and concluded you already received a large measure of clemency from the Navy.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you provided in mitigation, 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.

¹ The Board noted you provided a number of advocacy letters that appear to be written in the same handwriting and signed by the same individual.

² The Board observed that, while your GEN discharge does disqualify you from certain veterans' benefits, you are likely eligible for compensation and pension benefits from the Department of Veterans Affairs (VA) based on your current characterization of service. However, the Board has no cognizance over veterans' benefits and recommends you contact the nearest VA office to determine your eligibility.

Accordingly, given the totality of the circumstances, the Board determined 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,

3/24/2025

