



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

█
Docket No. 9484-24
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 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 22 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).

You enlisted in the Marine Corps and commenced a period of active duty on 2 September 1980. Between 29 December 1980 to 8 October 1981 you received non-judicial punishment (NJP) on four occasions for two specifications of unauthorized absence (UA), willful disobedience, and failure to obey a lawful order by consuming and possessing alcohol. You were counseled regarding your frequent involvement and notified continued misconduct may result in the initiation of administrative separation proceedings.

On 15 December 1981, you submitted a good of the service (GOS) request to be discharged in lieu of trial by court-martial after you were charged with four specifications of UA that included a period of 47 days. Even though your request was determined to be sufficient in fact and law, it appears you were allowed to continue your active duty service.

On 13 January 1982, you were convicted by a special court-martial (SPCM) for disrespect to an officer, disobeying an order, disrespect towards a noncommissioned officer, and marijuana possession. On 13 August 1982, you received NJP for willful disobedience of an order. On

2 December 1982, you received your final NJP for UA from your appointed place of duty. Consequently, you were notified of the initiation of administrative separation proceedings as a result of your pattern of misconduct. You waived your right to consult with counsel and a hearing before an administrative discharge board. Ultimately, the separation authority approved your discharge with an Other Than Honorable (OTH) character of service and you were so discharged on 14 January 1983.

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 upgrade your discharge to be eligible for a military burial and contention that you were told that you require an upgrade to apply for Department of Veterans Affairs (VA) treatment for ██████████ water contamination. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

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 NJPs, GOS request, and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact 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 that marijuana possession in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. The Board found that your conduct not only showed a pattern of misconduct but was sufficiently serious 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. 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.

As a part of the Caring for ██████████ Families Act of 2012, qualifying veterans can receive all their health care (except dental care) from VA if they served on active duty at ██████████ for at least 30 days between August 1, 1953 and December 31, 1987. The Board recommends you contact your nearest VA office to determine your eligibility for care.

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,

1/7/2025

