



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

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Docket No. 9738-24
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 24 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).

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 enlisted in the Marine Corps after receiving a waiver for pre-service marijuana use and commenced active duty on 10 October 1984. On 1 June 1985, you were issued an administrative remarks (Page 11) counseling for unauthorized absence (UA) from formation. On 14 August 1985, you received non-judicial punishment (NJP) for stealing money from another Marine. On 19 August 1985, you were issued Page 11 counseling concerning deficiencies in your performance and/or conduct; specifically, writing checks with insufficient funds. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 9 July 1987, you received NJP for wrongful use of marijuana as evidenced by positive urinalysis results of 16 May 1987.

On 10 August 1987, you were given a Substance Abuse Evaluation and determined to be a non-dependent abuser of cannabis and alcohol. You were then notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse and, on 2 October 1987, you waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. The separation authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 10 November 1987.

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 and your contentions that you never smoked marijuana, the urinalysis was inaccurate, you were targeted by your superiors and suffered mental health problems that persist to this day, but you have not sought treatment, you did not understand you were being discharged, and the signature on your DD Form 214 is not yours. Additionally, the Board noted you checked the "Mental Health" box on your application but chose not to respond to the 1 October 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board noted that you did not provide documentation of 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, 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 also considered the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board considered your contention that your positive urinalysis was inaccurate because you had never smoked marijuana and noted that you disclosed pre-service marijuana use on both your enlistment application and enlistment physical. Further, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions. 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. After reviewing your evidence, the Board determined you provided insufficient evidence to overcome the presumption that your urinalysis was correct.

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. 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,

3/19/2025

