



**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. 9849-24  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 2 December 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 Navy and commenced active duty on 25 September 1989. On 29 July 1992, you received non-judicial punishment (NJP) for wrongful use of marijuana and an orders violation. Consequently, you were notified of administrative separation processing for misconduct due to drug abuse. You waived your rights in relation to the separation process including your right to consult with counsel and to request an administrative discharge board. Ultimately, you were discharged with an Other Than Honorable (OTH) characterization of service on 4 September 1992.

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 characterization of service to Honorable and change your narrative reason for separation and separation code to reflect a

Secretarial Authority discharge. You contend that, although you apologize for your misconduct as a young Sailor and understand you should have been held to high standards, you took immediate ownership of your actions and fully cooperated with your chain of command during your NJP and separation processes. You further contend you have lived with the shame and burden of your OTH for almost 30 years and have been improperly stigmatized and harmed by your characterization of service. In addition, you state your misconduct was of a non-violent nature and isolated outlier when compared to the rest of your military service. You further state you have also taken strides to better yourself since discharge, relaying that you recently celebrated your 40th wedding anniversary, have three children and four grandchildren, and currently work as truck driver with your wife. You provided that both you and your wife possess security clearances required in order haul military freight and enter military installations on a regular basis. You are also an active member of your church. Lastly, you state you have been punished enough for your misdeeds and request the chance to restore your honor and reclaim your good name. For purposes of clemency and equity consideration, the Board considered the supporting evidence you provided including your legal brief, military records, medical records, and 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 NJP, 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. Further, 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. Finally, the Board was not persuaded by your argument that you have been "improperly" stigmatized and determined you were appropriately processed for administrative separation based on your drug abuse and assigned an OTH characterization<sup>1</sup> due to the seriousness of your misconduct.

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 you for 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. 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

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<sup>1</sup> The Board also did not consider the assignment of your OTH characterization as punishment and determined that it was an authorized characterization of your performance during your period of active duty.

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

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