



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

██████████  
Docket No. 9910-24  
Ref: Signature Date

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████████████████

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 21 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 Navy and began a period of active duty on 9 May 1975. On 23 December 1975, you were evaluated by a medical officer as a result of your admission of taking "speed" and were diagnosed with drug abuse. On 24 December 1975, the Chief of Naval Personnel granted you a Drug Exemption and placed you under the surveillance program. On 29 December 1975, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) and dereliction of duty. On 4 February 1976, the Chief of Naval Personnel decided that no further action with regards to administrative separation was contemplated in your case. However, you were advised that further misconduct may result not only in disciplinary action but processing for administrative separation.

On 30 April 1976, you received a second NJP for wrongful possession of a controlled substance-hashish. On 15 August 1977, you began a period of UA which lasted six-days and resulted in your third NJP on 22 August 1977. On 24 October 1977, you began a period of UA which lasted 8 hours. Between 28 October 77 and 13 June 1978, you received NJP on four occasions for two instances of UA, damaging government property, failure to obey a lawful order by having in your possession a pipe containing marijuana, dereliction of duty, and dealing with alcoholic beverages on a naval ship.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file. Notwithstanding, 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 Navy on 26 June 1978 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is "Misconduct" your separation code is "JHJ," and your reenlistment code is "RE-4."

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 for a discharge upgrade and contentions that: (a) you were not informed that you would receive an OTH discharge, (b) you got set up with a seed of marijuana in a locker that you did not use, and (c) you were told that you got an Honorable discharge and that you could get out early due to ship deployment. For purposes of clemency and equity consideration, the Board noted you did provide copies of your personal statement, a Department of Veterans Affairs decision document, and a character letter of support.

After thorough review, the Board concluded these 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 included drug related 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. The Board noted that marijuana use is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board considered the likely negative impact it had on the good order and discipline of your unit. Finally, the Board noted you were given an opportunity to correct your conduct deficiencies but chose to continue to commit 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. Contrary to your implied contention that you were discharged for a single incident involving a hashish seed, the Board noted that your record of misconduct included seven NJPs during a single enlistment period. Finally, the Board considered that you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board was not persuaded by your contention that you were wrongfully awarded NJP for drug possession or told that you would receive an Honorable discharge.

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 submitted 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. 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 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,

2/14/2025

