



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

[REDACTED]  
Docket No. 10059-24  
Ref: Signature Date

[REDACTED]  
[REDACTED]  
[REDACTED]

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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 25 April 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 enlisted in the Marine Corps with a waiver for pre-service drug use and began a period of active duty on 10 May 1994. On 24 January 1997, a message from the Naval Drug Laboratory reported your drug use urinalysis screening as positive for marijuana and cocaine metabolites. A second message, on 6 March 1997, reported a positive urinalysis for lysergic acid diethylamide (LSD) use. On 12 March 1997, you accepted a pre-trial agreement (PTA) in which you agreed to waive your right to a hearing before an administrative separation board in return for removal of the charges against you into a lesser forum of a Summary Court-Martial (SCM). Your SCM trial proceedings convened the following day and you were found guilty according to your pleas of three specifications of violations under Article 112a of the Uniform Code of Military Justice (UCMJ), for wrongful use of marijuana, cocaine, and LSD. You were sentenced to reduction to the paygrade of E-1, forfeiture of \$450 pay, and 30 days confinement. You were subsequently processed for administrative separation by reason of misconduct due to drug abuse and, consistent with your PTA, waived your right to a hearing before an administrative separation board. Your commanding officer's recommendation for your discharge under Other Than Honorable (OTH) conditions advised that your drug abuse misconduct had been a

calculated decision to disregard law and regulations as opposed to a naïve, immature act. Your separation was approved as recommended and you were so discharged on 10 April 1997.

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 contention that you are now a better person than you were during your military service. Additionally, you checked the "PTSD" and "Other Mental Health" boxes on your application but chose not to respond to the Board's request for supporting evidence of your claims. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely your petition without any other additional documentation.

After thorough review, the Board concluded the potentially mitigating factors you submitted for consideration were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included multiple drug 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. 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. Finally, the Board noted that you already received significant clemency as well as the benefit of your bargain via a PTA which limited your potential confinement to 30 days as opposed to potentially 12 months and also protected you from a potential federal conviction and punitive 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. 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 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 is attached 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,

5/19/2025

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