



Docket No. 11134-24
Ref: Signature Date

Dear |

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 5 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, 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 began a period of active duty on 20 January 1982. On 27 January 1982, you acknowledged the Marine Corps policy on illegal drug use. On 30 March 1983, you received non-judicial punishment (NJP) for two specifications of wrongful use of a controlled substance; cocaine and marijuana. On 30 March 1983, you were assigned to the drug and alcohol rehabilitation program; which you completed on 30 May 1983. On 19 September 1983, you received your second NJP for failing to report drug distribution activity within your unit, wrongful possession of LSD, and wrongful use of LSD.

Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to drug abuse. You waived your procedural rights, and the commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge with an Other Than Honorable

(OTH) characterization of service. The separation authority accepted the recommendation, and you were so discharged on 6 January 1984.

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 character of service and contentions that: (1) you believe there are significant grounds for reconsideration, (2) you would like to highlight that you did not have legal representation during the questioning process and you believe this may have affected the outcome of your case and limited your ability to represent your side fully, (3) since your discharge, you have committed yourself to a path of recovery and successfully abstaining from substance abuse, (4) you understand the gravity of your past action, but firmly believe that your current conduct reflects your true character and commitment to make amends, (5) you believe your discharge status does not accurately reflect your service and contributions, (6) you served honorably; meeting all required duties and responsibilities, (7) the event that led to your discharge was the result of a poor choice in actions and associations, (8) this was not taken into account during the discharge process, (9) had the mentioned factors been considered at the time, your discharge would have had a different outcome. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

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 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. Further, the Board concluded your misconduct showed a complete disregard for military authority and regulations. The Board noted that you were provided opportunities to correct your conduct deficiencies during your service, but you continued to commit additional 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. The Board was not persuaded by your arguments regarding access to legal counsel and noted you waived your procedural rights during your administrative separation processing.

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 and commends you for your post-discharge rehabilitation, even in light of the Wilkie Memos 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 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,

3/12/2025

