



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

Docket No. 11372-24  
Ref: Signature Date

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 8 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, 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 began a period of active duty on 25 July 1978. On 12 June 1980, you were recommended by the Counseling and Assistance Center for command counseling after being referred for substance abuse and diagnosed as not dependent on drugs or alcohol. On 21 August 1980, you were convicted of disorderly conduct in civilian court. On 7 November 1980, you received non-judicial punishment (NJP) for unauthorized absence (UA) and failure to obey a lawful order. On 9 February 1981, commenced a period of UA that ended on 10 February 1981. You were subsequently issued a counseling warning and advised that any further deficiencies in performance and or continued misconduct may result in disciplinary action and in processing for administrative discharge. On 6 March 1981, you received your second NJP for UA. You were again issued a counseling warning and advised that any further deficiencies in performance and or continued misconduct may result in disciplinary action and in processing for administrative discharge. On 15 May 1981, you received your third NJP for UA. On 3 August

1981, you received your fourth NJP for UA and dereliction of duty. On 4 September 1981, you received your fifth NJP for UA and dereliction of duty.

On 23 October 1981, you were screened for a competence for duty due to suspicion of marijuana/drug use and returned to full duty. On 28 December 1981, you received your sixth NJP for not standing proper watch, failure to go to appointed place of duty, violation of general regulation, damaging a coin machine by kicking it, and assault.

On 10 January 1982, you were issued a Page 13 concerning misconduct due to drug abuse. On 21 January 1982, you received your seventh NJP for two specifications of possession of marijuana and being locked in a space without proper authority. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to frequent involvement of a discreditable nature with civil and/or military authorities and drug abuse. You elected your right to consult with counsel and present your case to an administrative discharge board (ADB)<sup>1</sup>.

The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The separation authority concurred with the recommendation, and you were so discharged on 23 April 1982.

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 to get your veteran identification card and contention that you do not feel you should have been discharged under OTH. For purposes of clemency and equity consideration, the Board noted that you did not provide documentation 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 concluded your misconduct showed a complete disregard for military authority and regulations. In addition, the Board considered that your misconduct included 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 you were provided opportunities to correct your conduct deficiencies, but you 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. Finally, absent a material error or injustice, the Board declined to

---

<sup>1</sup> While a record of your ADB could not be located, based on a 5 March 1992 letter of deficiency from your assigned legal counsel and your commanding officer's endorsement, the Board was able to discern that the ADB found misconduct related to your drug abuse and recommended you be discharged with an Other Than Honorable (OTH) characterization of service.

summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities.

As a result, the Board determined your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. 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 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,

2/10/2025

