



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

██████████  
Docket No. 11377-24  
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 7 March 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 U.S. Navy and began a period of active duty service on 10 July 1980. Your pre-enlistment physical examination on, 20 July 1979, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. On 13 January 1981, you reported for duty on board the ██████████ at ██████████

On 3 September 1981, you received non-judicial punishment (NJP) for failing to obey a lawful order that involved a drug-related offense. You did not appeal your NJP. On 28 October 1982,

your command issued you a "Page 13" warning (Page 13) where you acknowledged being counseled concerning your record of drug abuse. The Page 13 warned you that should you continue to abuse drugs, you would subject yourself to process for administrative discharge which may be under conditions other than honorable (OTH).

On 16 December 1982, you received NJP for: (a) unauthorized absence (UA), (b) willful disobedience of a superior commissioned officer, and (c) insubordinate conduct. You did not appeal your NJP. On 6 January 1983, you received NJP for the wrongful use of marijuana. You did not appeal your NJP.

On 23 March 1984, you received NJP again for the wrongful use of marijuana. You did not appeal your NJP. On the same day, your command issued you a Page 13 documenting your involvement with marijuana. On 4 April 1984, your drug dependency evaluation indicated that you were not drug dependent and also noted that you stated you began smoking marijuana seven years ago; which meant your marijuana usage started pre-service.

On 4 April 1984, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. You consulted with counsel and elected your rights to submit statements and to request an administrative separation board (Adsep Board). In the interim, a Navy Drug Laboratory message indicated that you tested positive for cocaine. On 15 May 1984, your commanding officer vacated the suspended portion of your March 1984 NJP due to your continuing drug-related misconduct.

On 31 May 1984, an Adsep Board convened in your case. At the Adsep Board, you were represented by counsel and you provided sworn testimony on your own behalf. During your testimony, you admitted to smoking marijuana about once every two weeks to get high and admitted to using cocaine. You also said that, given an opportunity, you would indulge in drugs again and you did not consider yourself to be drug dependent. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously recommended that you committed misconduct and that you should be separated with an OTH discharge characterization. Ultimately, on 28 June 1984, you were separated from the Navy for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

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 believe you served your country honorably to include dangerous work with toxic chemicals, (b) it did not affect your service as your command continued to have you serve in your MOS, and (c) you complied with treatment. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application; which consisted solely of the information you included on your DD Form 149 without any additional documentation.

After thorough review, the Board concluded these potentially mitigating factors and contentions were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative

aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that illegal drug use is contrary to military core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board noted that marijuana use is still against Department of Defense regulations and its use in any form is still not permitted for recreational use while serving in the military. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board noted that your record included four (4) NJPs, the vacating of a suspended punishment due to continuing drug-related misconduct, and two (2) Page 13 counseling entries. The Board concluded that your cumulative misconduct was not minor in nature and demonstrated a repeated failure to conform to basic military standards of good order and discipline; all of which further justified your OTH characterization.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your drug-related 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 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,

3/24/2025

