



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

██████████  
Docket No. 11841-24  
Ref: Signature Date

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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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 May 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 U.S. Navy and began a period of active duty service on 17 September 2005. Your pre-enlistment physical examination, on 19 January 2005, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. On 26 May 2006, you reported for duty on board the ██████████ (██████████) in ██████████, ██████████.

On 5 July 2006, you commenced a period of unauthorized absence (UA) that terminated on 9 July 2006. On 28 July 2006, you received non-judicial punishment (NJP) for your four-day UA. You did not appeal your NJP.

On 3 August 2006, your command issued you a "Page 13" retention warning (Page 13)

documenting your failure to employ operational and personal risk management resulting in assignment of light duty due to personal injury on two occasions, as documented in your medical record. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and processing for administrative discharge.

On 16 October 2006, you commenced a period of UA. While in a UA status you missed the movement of your ship. Your UA terminated on 21 October 2006. On 24 October 2006 you received NJP for: (a) your five-day UA, (b) missing movement, and (c) failing to obey a lawful order or regulation. You did not appeal your NJP.

Your performance evaluation for the period ending 15 July 2007 documented a civilian conviction. In the comments section of your evaluation, the following was noted: "Additionally he was later arrested for his third offense of driving with a suspended license, receiving a civilian punishment of 5 days in county jail."

On 4 June 2008, you received NJP for the wrongful use of a controlled substance (marijuana). You did not appeal your NJP. Consequently, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. You waived in writing your rights to consult with counsel, submit statements, and to request an administrative separation board. The Separation Authority approved and directed your separation for misconduct due to drug abuse with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 22 July 2008, 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 change to your reason for discharge. You contend that: (a) societal views (both in and out of the Navy) of marijuana have changed dramatically in the sixteen years since you were discharged over a positive THC test, (b) the Wilkie Memorandum itself recognizes the shifting views on marijuana, (c) more recently, President Biden pardoned simple marijuana possession and use of marijuana, and (d) it is unfair to continue punishing you with a negative characterization, over conduct that would not be viewed nearly as harshly today. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors 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 Navy 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 their 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

additionally noted that the simple fact remains is that you also left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse on two (2) separate occasions, for a total of nine (9) days, and missed the movement of your ship on one occasion. 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 observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 2.0 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 2.5 in conduct (proper military behavior), for a fully honorable characterization of service. The Board concluded that your Conduct marks during your active duty career were a direct result of your pattern of serious misconduct which further justified your OTH discharge characterization.

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

5/20/2025

