



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

[REDACTED]  
Docket No. 12100-24  
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 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 10 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 to 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 1988 with a waiver for pre-service marijuana use. On 1 December 1988, you were subject to nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) Article 92 for failure to obey a written order by wrongfully drinking alcohol under the age of 21, and Article 134 for unlawful entry onto the base by jumping over a perimeter fence. On 7 May 1992, you were convicted by Summary Court-Martial (SCM) for additional violations of the UCMJ, including Article 86 for an unauthorized absence of approximately 12 hours and 45 minutes and Article 112a for wrongful use of marijuana. Consequently, you were notified of processing for administrative separation by reason of misconduct due to drug abuse and for commission of a serious offense and you elected to waive your rights to consult legal counsel and to request a hearing before an administrative separation board. The recommendation for your discharge under Other Than Honorable (OTH) conditions was forwarded noting your most recent misconduct as well as your previous NJP. The recommendation was approved by Naval Personnel Command and you were so discharge due to drug abuse on 11 June 1992.

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 contentions that you regret your shameful and foolish decision to use marijuana in light of the zero tolerance policy at the time and you believe your youth and immaturity factored into this mistake. For the purpose of clemency and equity consideration, you submitted to character letters which reflect that you have used your in-service experience as a Seabee to become an expert in skilled carpentry work and have helped raised your wife's son.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it 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 observed you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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 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,

2/4/2025