



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

Docket No. 12133-24  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 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, 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 12 December 1994. On 15 December 1995, you were counseled concerning knowingly driving a motor vehicle without a valid driver's license. On 11 January 1996, you were not recommended for promotion. On 13 March 1997, you were not recommended for promotion due to lack of maturity and financial responsibility. On 24 April 1997, you received non-judicial punishment (NJP) for failure to obey a lawful order. On 17 May 1997, you tested positive for marijuana. On 29 May 1997, you were counseled on your failure to be at your appointed place of duty in prescribed uniform and found asleep in your barracks room. On 13 June 1997, you received NJP for wrongful use of marijuana. On 17 June 1997, you were notified of reduction in rate by reason of professional incompetence. On 20 June 1997, you were medically screened for drug abuse and recommended for Level II treatment; however, you were found not to be drug dependent. You were found unfit for duty due to bilateral plantar fasciitis and accepted the findings on 10 July 1997. On 8 August 1997, you were counseled for testing positive for

methamphetamine. 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 consulted with counsel and waived your right to present your case to an administrative discharge board. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The separation authority accepted the recommendation, and you were so discharged on 16 December 1997.

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 you: (1) never did drugs while in the Marines, (2) want your record cleared that you did drugs, and (3) you have been trying for years to get this corrected in your record. 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 and positive urinalyses, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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 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. Finally, the Board noted that you provided no evidence, other than your statement, to substantiate your contention that you did not abuse drugs. Therefore, the Board relied on the presumption of regularity in your case. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

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 accomplishments, 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,

3/10/2025

