



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

Docket No. 12530-24
Ref: Signature Date

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 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 14 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, 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 21 December 1979. Prior to commencing active duty, you were granted a waiver for a minor traffic violation. You also admitted to a preservice arrest and charges by civil authorities. Between 22 April 1981 and 3 May 1992, you were counseled concerning the discovery of marijuana and alcoholic beverages in your quarters, violation of barracks regulations, proper performance of assigned duties, insubordinate conduct towards an NCO, and failure to obey orders. You were advised that failure to take corrective action could result in administrative separation.

On 11 June 1982, you were charged with unauthorized absence (UA) from appointed place of duty, two instances of wrongful use of a controlled substance-marijuana, disobeying a lawful order, stealing currency from another Marine, unlawfully entering to commit larceny, and failure to obey a lawful order. In response, you submitted a request to be discharged with an Other than

Honorable (OTH) discharge characterization in lieu of trial by court martial. On 15 June 1982, your commanding officer recommended disapproval of your request. On 23 June 1982, the staff judge advocate recommended disapproval of your request. On the same date, the separation authority disapproved your request.

On 22 July 1982, you were convicted by special court martial (SPCM) for a period of UA from appointed place of duty, two instances of wrongful use or possession of a controlled substance-marijuana, disobeying a lawful order, stealing currency from another Marine, unlawfully entering to commit larceny, and failure to obey a lawful order. You were found guilty and sentenced to a Bad Conduct Discharge (BCD), reduction in rank, confinement at hard labor, and forfeiture of pay. After completion of all levels of review, you were so discharged on 14 October 1983.

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 are asking the Board for mercy, (b) you do not deny that you were on drugs, and (c) over the past 20 years you have been a moral upright individual who is raising a family and paying your taxes. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug related offenses. The Board determined that illegal drug use and possession 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 observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your BCD. 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 you provided no evidence, other than your personal statement, to substantiate your contentions.

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. 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 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 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,

4/4/2025

