



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

██████████  
Docket No. 0200-25  
Ref: Signature Date

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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 17 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 20 July 1983. Prior to commencing active duty, you were granted a waiver for obstructing traffic. Between 26 March 1984 and 11 June 1984, you were counseled on three occasions for unauthorized absence (UA) from swim qualification training, possession of cocaine while trying to enter the United States thru port of entry, drug usage, the lack of an attitude that is conducive to the USMC, poor performance, and continued disregard of military standards. You were advised that failure to take corrective action could result in administrative separation.

Between 21 August 1984 and 27 March 1985, you received nonjudicial punishment (NJP) on three occasions for wrongful use of a controlled substance and three instances of UA. On 24 April 1985, you were convicted by summary court martial (SCM) for disobeying a lawful order and sentenced to a period of confinement. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct; at which point, you decided to waive your procedural rights. Your commanding officer

recommended an Other Than Honorable (OTH) discharge characterization of service and your administrative separation proceedings were determined to be sufficient in law and fact. The separation authority approved the recommendation, and you were so discharged on 17 June 1985.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 10 October 1992, after determining your discharge was proper as issued. On 12 April 2007, this Board denied your initial request for a discharge upgrade.

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 earned a Good Conduct Medal and good proficiency ratings before being unjustly deemed dangerous at your duty station, (b) you were railroaded through false charges like UA from swim qualification despite not being told, (c) you were looked down on, ostracized, and teased for being the only Latino in the office, (d) your mistake was being too young and naïve, (e) an illegal substance was found in the car and you ended up been accused since you were the driver, (f) you were told by those in charge that you did not need representation and not told about the repercussions of being discharge with an OTH, (g) a GEN discharge would open so many doors to so many things you have missed for so many years; especially the ability to tell your children that you served your country honorably. For purposes of clemency and equity consideration, the Board noted you provided copies of a certificate of completion, personal statement, DD Form 214, NDRB administrative data sheet, two training certificates, and a certificate of appreciation.

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 NJPs 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 related offense. The Board determined that illegal drug 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. Additionally, the Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit 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. Further, the Board observed you provided no evidence, other than your statement, to substantiate your contentions that you were not guilty of your misconduct and treated unfairly. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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, 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 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,

4/8/2025

