



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

Docket No. 0239-25  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 April 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 Marine Corps after disclosing pre-service marijuana use and commenced active duty on 27 July 1987. On 21 December 1987, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct for lack of attention to rules and regulations. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 25 May 1988, you received Page 11 counseling for deficiencies in your performance and/or conduct for lack of judgement exhibited in misuse of an open channel on Guard net.

On 13 September 1988, you received non-judicial punishment (NJP) for willfully disobeying a lawful order from a Sergeant. Between 16 September 1998 and 31 May 1989, you received five Page 11 counselings for inability to conform to weight control standards (two), unauthorized use of government telephone lines, lack of adherence to regulations concerning operation of your post, and losing three identification (ID) cards within a six-month period. You were advised that

any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 20 June 1989, you received NJP for dereliction of duty and were issued an additional Page 11 counseling for frequent involvement with military authorities and violations of the Uniform Code of Military Justice (UCMJ). You were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 6 September 1989, you received NJP for wrongful appropriation and straggling. On 14 September 1989, you received NJP for making a false official statement and wrongfully possessing two ID cards. Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to minor disciplinary infractions established by a pattern of involvement of a discreditable nature with military authorities. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. On 20 September 1989, you were interviewed by the Personnel Reliability Program (PRP) Certifying Officer regarding pending decertification. During the interview, you disclosed pre-service cocaine use that you had not disclosed during your enlistment processing. The separation authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 9 November 1989.

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 change your discharge characterization of service and your contentions that your misconduct was minor in nature, disciplinary actions were inconsistently handled compared to similar incidents involving your peers, your Captain and Staff Sergeant were trying to kick you out, and your DD Form 214 indicates drug use despite you never failing a drug test. Additionally, the Board noted you checked the "Mental Health" box on your application but chose not to respond to the 15 January 2025 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered your statement and the advocacy letter you provided.

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. 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. The Board disagreed with your contention that your misconduct was minor in nature and considered that orders violations, dereliction of duty, and wrongful appropriations all qualify for punitive discharges under the Uniform Code of Military Justice.

The Board further noted that there is no mention of drug abuse on your DD Form 214, nor was drug abuse listed as a basis of separation in your letter of notification. Finally, the Board noted that although you provided an advocacy letter from someone who served with you, you provided

no evidence, other than your statement, to support your contention that your Captain and Staff Sergeant were treating you unfairly and trying to kick you out of the Marine Corps.

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 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,

4/30/2025

