



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

Docket No. 342-25  
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 7 May 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 30 December 1980. On 8 September 1981, you received non-judicial punishment (NJP) for seven specifications of unauthorized absence. Additionally, in September 1981, you tested positive for THC (marijuana) as a result of a unit sweep urinalysis. On 16 April 1982, you were issued an administrative remarks (Page 13) counseling identifying you as a drug abuser for your use of marijuana as evidenced by positive results of a urinalysis test conducted on 28 December 1981.

On 22 October 1982, you were issued a Page 13 counseling identifying you as a drug abuser for your use of marijuana as evidenced by positive results of a urinalysis test conducted on 2 July 1982. Consequently, you were notified that you were being recommended for administrative

discharge from the Navy by reason of misconduct. You were informed of the basis for this recommendation and that the least favorable characterization of service you may receive is General (Under Honorable Conditions) (GEN). You waived your right to consult with counsel and to present your case to an administrative discharge board. On 1 November 1982, your commanding officer recommended your administrative separation from the Navy with a GEN character of service.

While you were pending administrative separation, on 3 January 1983, you were issued a Page 13 counseling identifying you as a drug abuser based on a positive urinalysis conducted on 20 November 1982. On 22 February 1983, you were found guilty by a general court-martial (GCM) of wrongful possession and introduction of 106.4 grams of marijuana, with intent to distribute, while at [REDACTED]. You were sentenced to confinement, forfeiture of all pay and allowances, and a Bad Conduct Discharge (BCD). Ultimately, upon the completion of the appellate review in your case, you were so discharged on 27 January 1986.

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: (1) you did not have prior offenses, (2) you felt isolated during your court proceedings resulting in mental health conditions; to include PTSD, (3) you were not properly counseled during the proceedings to receive such a discharge, (4) you were confronted with no-cause warranted to search your dorm, and (5) you performed your MOS duty assignment as a good worker. You also checked the "PTSD" box on your application but you did not respond to the Board's request for evidence in support of this claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition without any other additional documentation.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJP and GCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple drug offenses. The Board determined that illegal drug use and possession with the intent to distribute 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 noted that marijuana use and possession 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 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. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD.

Furthermore, the Board noted, contrary to your contention that you did not have any prior offenses, the record reflects that you received an NJP and multiple instances of wrongful use of a controlled substance before you were convicted by a GCM. Additionally, you provided no

evidence, other than your statement, to substantiate your contentions. Finally, the Board noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing a characterization of discharge, even one awarded by a court-martial. However, the Board concluded that despite your contentions this was not a case warranting any clemency based on the gravity of your misconduct.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative 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 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,

5/22/2025

