



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

[REDACTED]
[REDACTED]
Docket No. 0395-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 12 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, 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 26 December 2000. As part of your enlistment process, you admitted preservice use of marijuana. On 24 April 2001, you received nonjudicial punishment (NJP) for wrongful use of a controlled substance-marijuana.

Unfortunately, documents pertinent to your court-martial proceedings are not in your official military personnel file (OMPF). Notwithstanding, 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. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated from the Marine Corps, on 6 February 2003, with a "Bad Conduct

Discharge (BCD),” narrative reason for separation of “Court-Martial,” reenlistment code of “RE-4,” and your separation code of “JJE2;” which corresponds to court-martial (drug abuse). 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 were unjustly discharged and not given the chance to defend yourself, (b) you were subject to a raid in the barracks and no drugs were found or charges were filed; (c) you developed embarrassment and distress when put in suicide watch; (d) you were wrongfully charged with one count of wrongful use of marijuana and methamphetamine; (e) your wrongful discharge has had devastating consequences in your life, (f) you have struggle with severe depression, drug and alcohol addiction, and a down spiral into criminal behavior resulting in imprisonment, (g) you were prescribed anti-depressants as a result of the ongoing impact of your mental health; (h) you are currently suffering from constant headaches, severe anxiety, and insomnia caused by frequent nightmares; (i) your anxiety has significantly impacted your ability to function in public places and your family quality of life. Additionally, the Board noted your check the “PTSD” box on your application but chose not to respond to the Board’s 21 January 2025 letter requesting supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of the letter you included with your petition without any other additional documentation.

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 NJP and court-martial conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug related 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. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Finally, the Board noted you provided no evidence to substantiate your contentions. Therefore, the Board determined the presumption of regularity applies to your court-martial conviction and sentence.

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,

5/29/2025

