



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

██████████  
Docket No. 630-25  
Ref: Signature Date

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████████████████████  
████████████████

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 17 June 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 and began a period of active duty on 24 February 1992. Upon entry onto active duty, you admitted to illegal use of marijuana while in the Delayed Entry Program. On 6 December 1993, you received non-judicial punishment (NJP) for four days unauthorized absence (UA). On 27 December 1993, you began a period of UA that ended on 14 March 1994. On 21 April 1994, you began another period of UA that ended on 8 August 1994. On 21 September 1994, you were found guilty at special court-martial (SPCM) for 77 days UA, 109 days UA, and wrongful use of marijuana. You were sentenced to confinement, forfeiture of pay, reduction in rank, and a Bad Conduct Discharge (BCD). After completion all levels of review, you were so discharged on 23 May 1996.

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 an upgrade in your characterization of service

and contentions that your discharge was unjustly assigned due to a lack of adequate legal representation during your court-martial proceedings, errors in the legal process, and your belief that the original punishment was excessively harsh considering the circumstances surrounding the offense. You also checked the "Other Mental Health" box on your application but did not respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. 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 also observed that you provided no evidence, other than your statement, to substantiate your contentions that you were denied due process. The Board observed that you pleaded guilty to the charged offenses and specifications at your SPCM. The Board further noted that a plea of guilty is the strongest form of proof known to the law. Based upon your plea of guilty alone and without receiving any evidence in the case, a court-martial can find you guilty of the offenses to which you pleaded guilty. The Board noted that during a SPCM guilty plea such as yours, the Military Judge (MJ) will only accept your guilty plea once they were satisfied that you fully understood the meaning and effect of your guilty plea, and only after determining that your plea was made voluntarily, of your own free will, and with full knowledge of its meaning and effect. On the record, the MJ would have also had you state on the record that discussed every aspect of your case including the evidence against you and possible defenses and motions in detail with your lawyer, and that you were satisfied with your counsel's advice. Further, the MJ would have also had you state on the record that you were pleading guilty because you felt in your own mind that you were guilty. Moreover, the Uniform Code of Military Justice states that during the appellate review process, the appellate court may affirm only such findings of guilty and the sentence or such part or amount of the sentence as it finds correct in law and fact and determines, on the basis of the entire record, should be approved. In other words, the appellate court has a duty to conduct a legal and factual sufficiency review of the case. If any errors or improprieties had occurred at any stage in your case, the Board determined that the appellate court would have concluded as such and ordered the appropriate relief. However, no substantive, evidentiary, or procedural defects were identified in your case.

The Board also 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 as you were properly convicted at a SPCM of serious misconduct. The Board determined that characterization with a BCD appropriate when the basis for discharge is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. In reviewing the number and nature of your offenses, the Board disagreed with your

contention that your punishment was excessively harsh and found that your punishment was appropriate based on the seriousness of your misconduct.

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 provided 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,

7/3/2025

