



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

█  
Docket No. 1249-25  
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 29 August 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 U.S. Navy and began a period of active duty service on 14 August 2004. Your pre-enlistment physical examination, on 25 November 2003, and self-reported medical history both noted no psychiatric or neurologic issues, conditions, or symptoms. On your enlistment application you disclosed pre-service marijuana use. On 20 November 2004, you reported for duty on board the █ at █.

On 24 August 2006, you received non-judicial punishment (NJP) for two (2) separate specifications of failing to obey a lawful order for: (a) wrongfully consuming alcohol under twenty-one (21), and (b) wrongfully drinking while assigned as the non-drinking liberty buddy. You did not appeal your NJP. On 29 August 2006, your command issued you a "Page 13" warning (Page 13) documenting your NJP. The Page 13 advised you that any further deficiencies in performance and/or conduct may result in disciplinary action and in processing for administrative separation.

On 17 May 2007, you commenced a period of unauthorized absence (UA) that terminated on 20 May 2007. On 7 June 2007, you received NJP for your three-day UA. You did not appeal your NJP.

On 13 March 2008, a Navy Drug Screening Laboratory message indicated you tested positive for marijuana (THC). After your command informed you that you tested positive and would be receiving NJP, you commenced another UA on 17 March 2008. Your command declared you to be a deserter on 16 April 2008. Your UA terminated with your arrest by civilian authorities in █ on 13 May 2008.

On 13 May 2008, your command notified you of administrative separation proceedings by reason of: (a) misconduct due to the commission of a serious offense, (b) misconduct due to a pattern of misconduct, and (c) misconduct due to drug abuse. You waived your rights to consult with counsel, to submit statements, and to request an administrative separation board (Adsep Board).

Following your notification and election of rights, on 15 May 2008, you commenced another UA and never returned to military control prior to your separation. Ultimately, on 1 August 2008, you were separated from the Navy for misconduct in absentia with an under Other Than Honorable conditions (OTH) discharge characterization and assigned an RE-4 reentry code. As of your separation date, your UA had totaled of seventy-eight (78) days.

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 your contention that you applied for a Department of Veterans Affairs home loan in September 2024 and were denied a certificate of eligibility due to your character of service. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of what you stated on your DD Form 149 without any additional documentation for the Board's consideration.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board noted that marijuana use in any form is still against current Department of Defense regulations and not permitted for recreational use while serving in the military. The Board additionally noted that the simple fact remains is that you also left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse multiple times for no less than 138 days. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service.

Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

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 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,

9/4/2025

