



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

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Docket No. 1265-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 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 this 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).

During your enlistment processing, you disclosed pre-service marijuana use and subsequently signed the Navy's Illicit Behavior Screening Certificate Statement of Understanding, acknowledging that drug use in the Navy is prohibited and will not be tolerated. You enlisted in the Navy and began a period of active duty on 26 June 2006. You were also briefed on the Navy's zero tolerance policy regarding illegal drug use. On 10 January 2007, you received nonjudicial punishment (NJP) for failing to obey a lawful order. An administrative entry in your Official Military Personnel File (OMPF), dated 24 January 2007, reflects that you declined substance abuse rehabilitation treatment.

Unfortunately, the documents related to your administrative separation are not in your OMPF. In this regard, 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 (as is the case at present), will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214) reveals you were separated from the Navy, on 16 February 2007, with an Other Than Honorable (OTH) characterization of service, narrative reason for separation of "Drug Abuse," separation code of "HKK," and reenlistment code of "RE-4." Based on the information contained in your DD Form 214, you

waived your right to an administrative discharge board. In the absence of evidence to the contrary, it is presumed that you were properly advised of your rights.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 and remove “drug abuse” from your narrative reason for separation. You contend that: (1) you believe your record is unjust, as there was no evidence that you used any illicit substances, (2) the allegation was based solely on hearsay from a fellow sailor, (3) while a urinalysis was conducted on the same day the allegation was made, to your knowledge, it did not yield a positive result for any drug use, and (4) you were never afforded the opportunity to defend yourself or challenge the lack of substantive evidence that ultimately led to your discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJP and drug abuse discharge, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it involved 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 concluded that your conduct showed a complete disregard for military authority and regulations. Finally, the Board noted you provided insufficient evidence to overcome the presumption of regularity with your administrative separation. Therefore, the Board concluded 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.

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 is attached 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,

6/30/2025

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Executive Director

Signed by: █