

## **DEPARTMENT OF THE NAVY**

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

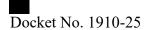
> Docket No. 1910-25 Ref: Signature Date

## 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 July 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 commenced active duty on 4 December 1984. On 5 December 1984, you received a fraudulent enlistment waiver for failing to disclose pre-service marijuana use and dependency status. On 5 February 1985, you were issued an administrative remarks (Page 11) counseling for positive urinalysis from testing conducted on 6 December 1984. On 21 January 1986, you received non-judicial punishment (NJP) for fourteen specifications of wrongfully and unlawfully making and uttering checks knowing you did not have sufficient funds and unauthorized absence (UA) by failing to go to your appointed place of duty. You were issued Page 11 counseling concerning deficiencies in your performance and/or conduct and were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 6 October 1986, you received additional Page 11 counseling for writing a check with insufficient funds. On 31 December 1986, you received NJP for UA, for failure to go to appointed place of duty from 22 December 1986 to 29 December 1986. On 2 March 1987, you were issued Page 11 counseling for repeated involvement with both civil and military authorities and repeated NJP



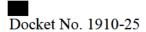
offenses and were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 25 March 1987, you received NJP for wrongful use of marijuana.

On 2 December 1988, you pleaded guilty at a Special Court Martial (SPCM) to wrongful use of cocaine and unlawfully uttering drafts with insufficient funds totaling one thousand nine hundred-fifty dollars. You were sentenced to reduction in rank to E-1, confinement, and a Bad Conduct Discharge (BCD). You were released from confinement and, on 27 January 1989, commenced a period of UA that ended in your surrender on 30 January 1989. You received NJP for UA on 3 February 1989. Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 19 March 1991.

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 change your discharge characterization of service, your expression of remorse for your actions, and your desire for medical benefits and compensation from the Department of Veterans Affairs (VA) due to contaminated water at Camp Lejeune. You also checked the "PTSD," "Other Mental Health," and "TBI" boxes on your application but did not provide evidence of these conditions in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your statement, copy of your VA claim, and copy of the VA acknowledgement of your intent to file a claim.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved drug 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 also found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH discharge. 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. Further, the Board also considered the service-discrediting nature of your repeated unlawful utterances of drafts with insufficient funds. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits.

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 submitted 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.

As a part of the Caring for all their health care (except dental care) from Department of Veterans Affairs (VA) if they served on active duty at for at least 30 days between August 1, 1953 and December 31, 1987. The Board recommends you contact your nearest VA office to determine your eligibility for care.

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.

