



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

██████████
Docket No. 2189-25
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 reconsideration application on 16 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, 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty service on 18 March 1982. Your pre-enlistment physical examination on, 28 January 1982, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.

On 25 August 1982, you received non-judicial punishment (NJP) for two (2) separate specifications of failing to obey a lawful order. You did not appeal your NJP.

On or about 18 April 1983, you tested positive for marijuana, and your command placed you in a Level I drug rehabilitation treatment regimen.

On 2 May 1983, you were convicted at a Summary Court-Martial (SCM) of an assault upon another service member. The SCM sentenced you to confinement at hard labor for fifteen (15) days, forfeitures of pay, and restriction for twenty-five (25) days. The Convening Authority subsequently approved the SCM sentence.

On 4 May 1983, your command issued you a "Page 13" warning (Page 13) documenting your first incident of the wrongful use of a controlled substance (marijuana). The Page 13 advised you that any further deficiencies in performance and/or conduct may result in disciplinary action.

On 1 June 1983, you received NJP for: (a) unauthorized absence, (b) the wrongful possession of marijuana, (c) sleeping on post, and (d) failing to obey a lawful order and dereliction of duty. You did not appeal your NJP.

Consequently, your command notified you of administrative separation proceedings by reason of misconduct due to a pattern of misconduct and drug abuse. You consulted with counsel and elected your rights to submit statements and to request an administrative separation board (Adsep Board). In the interim, on 29 June 1983, a Navy Drug Laboratory message indicated that you tested positive again for marijuana.

On 8 July 1983, an Adsep Board convened in your case. At the Adsep Board, you were represented by counsel and provided sworn testimony on your own behalf. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously recommended that you committed the misconduct as charged and that you should be separated with an under Other Than Honorable conditions (OTH) discharge characterization.

On 24 August 1983, you received NJP for sleeping on post. You did not appeal your NJP. Ultimately, on 23 September 1983, you were separated from the Navy for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

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 believe your OTH discharge was disproportionately severe relative to the infractions you were guilty of, (b) in retrospect, you believe that restriction to the barracks or a fine would have been more appropriate punishments, (c) at the time of your discharge you were young and naïve and did not think your OTH characterization would impact your life, and (d) now you would like to receive Department of Veterans Affairs medical care benefits. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application; which consisted solely of the information you included on your DD Form 149 without any additional documentation.

After thorough review, the Board concluded these potentially mitigating factors and contentions 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 illegal drug use is contrary to military 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 is still against Department of Defense regulations and its use in any form is still not permitted for recreational use while serving in the military. 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 the record clearly reflected your pattern of 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.

The Board noted that your service record included three (3) NJPs, one (1) SCM, and two positive drug test results for a controlled substance. The Board concluded that your cumulative misconduct was not minor in nature and demonstrated a repeated failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

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 drug-related misconduct and disregard for good order and discipline clearly merited your discharge. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and 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,

5/23/2025

the 1990s, the number of people in the United States who are 65 years of age or older is projected to increase from 20 million to 35 million. The number of people 75 years of age or older is projected to increase from 10 million to 15 million. The number of people 85 years of age or older is projected to increase from 2 million to 4 million.