



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

[REDACTED]  
Docket No. 2479-25  
Ref: Signature Date

[REDACTED]  
[REDACTED]  
[REDACTED]  
  
Dear [REDACTED]

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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 5 September 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Navy with a pre-service history of marijuana use and began a period of active duty on 14 March 1988. On 8 September 1988, you were issued administrative counseling advising you to correct your substandard performance and behavior, as evidence by your deceitfulness, procrastination, and apparent inability to adapt or follow rules and regulations. On 14 February 1989, you received non-judicial punishment (NJP) for violation of Article 121 of the Uniform Code of Military Justice (UCMJ) due to larceny. On 4 April 1991, you received a second NJP for violating Article 112a of the UCMJ due to wrongful use of the controlled substance marijuana. During a substance use evaluation, you were diagnosed as being psychologically dependent on alcohol but stated that you had only used marijuana once at the age of 16. You were also diagnosed as having an Adjustment Disorder.

Consequently, you were notified of processing for administrative separation by reason of misconduct due to commission of a serious offense and drug abuse. You elected to voluntarily waive your right to a hearing before an administrative separation board and the recommendation for your discharge under Other Than Honorable conditions (OTH) was approved for the primary basis of misconduct due to drug abuse (use).

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 upgrade your discharge and your contention that you were innocent of the charge of smoking marijuana during service. You submitted a research article which studied “retoxification” occurring from the release of marijuana metabolites from stored fat into blood due to food deprivation, which you appear to believe explains your positive urinalysis. In addition, you provided a statement from your brother in which he asserts you inadvertently consumed one of his marijuana laces muffins while on leave between duty stations in ██████████, ██████████ and ██████████, ██████████. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

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 NJPs, 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 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 also found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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.

Additionally, the Board was not persuaded by your argument that your positive urinalysis was due to “retoxification” from your innocent ingestion of your brother’s marijuana. Even assuming that “retoxification” occurred, the Board concluded the timing of your positive urinalysis is inconsistent with this rationale<sup>1</sup>. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

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

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<sup>1</sup> The study you provided indicates that THC was observed in fat biopsies up to 28 days following exposure to marijuana (77 days for heavy marijuana users). The Board noted these timelines are inconsistent with the date of your positive urinalysis and your brother’s assertion of when you consumed the marijuana.

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,

9/24/2025

