



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

[REDACTED]
Docket No. 2589-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 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 30 April 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 Navy and began a period of active duty on 18 March 1982. On 25 August 1982, you were subject to nonjudicial punishment (NJP) for two specifications of violations under Article 92 of the Uniform Code of Military Justice (UCMJ), due to failure to obey a lawful order by entering female berthing and by also leaving the northeast female wing. On 18 April 1983, your drug screening urinalysis was reported positive for marijuana use. Although the subsequent substance abuse report noted that you denied drug use, an administrative counseling entry advised that you correct your conduct deficiency with respect to your first incident with a controlled substance and assessed, based on your substance abuse evaluation, that you had rehabilitation potential. Separately, on 2 May 1983, you were tried and convicted by Summary Court-Martial for committing assault upon a junior enlisted corpsman, in violation of Article 128 of the UCMJ. You received a second NJP, on 1 June 1983, for possession of marijuana, in violation of Article 134, and for additional offenses of: a period of unauthorized absence, in violation of Article 86; sleeping on post, in violation of Article 113; and, multiple specifications of violation under Article 92 for failing to obey the lawful order of a chief petty officer, dereliction in the performance of your duties, and not being in your restricted barracks room by

the required time. Additionally, your commanding officer recommended the removal of your corpsman striker identification due to concerns your drug use raised with respect to your provision of patient care.

Consequently, you were notified of processing for administrative separation by the reasons of misconduct due to drug abuse and due to a pattern of misconduct. After consulting legal counsel, you requested a hearing before an administrative discharge board (ADB). On 8 July 1983, the ADB found the preponderance of evidence to substantiate both bases of misconduct, notwithstanding your sworn statement in which you largely denied culpability for your misconduct and recommended that you be separated under Other Than Honorable conditions. Your commanding officer endorsed this recommendation but, in the meantime, you received a third NJP for again for sleeping on post. Your separation under OTH conditions was approved for the primary reason of a pattern of misconduct due to frequent involvement of a discreditable nature with civil or military authorities and you were discharged on 23 September 1983.

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 contentions that your discharge was disproportionately severe relative to "the infraction" of which you were guilty, that restriction to the barracks or a fine would have been more appropriate punishments, your youth and naivety contributed to your failure to understand the impact your conduct and discharge would have on your life, and you would like veterans' health benefits. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition without any other additional documentation.

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 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. 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 concluded that your 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 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,

5/21/2025

