



Docket No. 2741-25
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 29 August 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 after receiving a waiver for pre-service minor non-traffic offenses and commenced active duty on 30 November 1979. On 13 June 1980, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 9 July 1980, you received non-judicial punishment (NJP) for possession of marijuana. On 5 August 1980, you received NJP for two days of unauthorized absence (UA). On 6 August 1980, you received NJP for breaking restriction. On 26 August 1980, you received NJP for breaking restriction. On 16 September 1980, you received Page 11 counseling for suspicion of using a controlled substance. On 2 October 1980, you received Page 11 counseling regarding your arrest and confinement by the [REDACTED] from 27 July 1980 to 30 July 1980 for traffic warrants. On 2 October 1980, you commenced a period of UA that ended on 30 October 1980. On 13 November 1980, you were convicted at Summary Court-martial (SCM) of the twenty-eight days of UA. You were sentenced to forfeitures and confinement at hard labor and

issued a Page 11 counseling concerning deficiencies in your performance and/or conduct. Again, you were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 15 June 1981, you were issued Page 11 counseling for reckless driving; the counseling noted that you had been identified three times for driving recklessly and excessive speeds. On 10 August 1981, you were issued Page 11 counseling for being out of uniform for inspection. On 19 October 1982, you received NJP for a one-day UA. On 24 February 1983, you received NJP for UA from Battalion physical training. On 24 March 1983, you received Page 11 counseling for unexcused absence while in the hands of civilian authorities from 7 March 1983 to 8 March 1983. On 13 April 1983 you received three Page 11 counselings notifying you of the command's intention to recommend you for administrative discharge, your substandard performance and lack of initiative, and for revocation of your driver's license.

On 19 April 1983, you received Page 11 counseling for positive urinalysis for cannabinoids. On 10 May 1983, you received a substance abuse evaluation where you contended that you falsified your urine sample with grapefruit juice, had previously abused marijuana, and stopped using entirely months prior to the test. On 13 May 1983, you received NJP for UA from 12 April 1983 to 13 April 1983 and willfully disobeying a lawful order from a commissioned officer. On 8 June 1983, you received NJP for missing movement through neglect.

On 20 June 1983, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. The separation authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 18 July 1983.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 4 August 1997, based on their determination that your discharge was proper as issued.

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 and your contentions that your discharge was upgraded in 1985, you qualified for a Department of Veterans Affairs (VA) Loan, and were granted a VA loan in 1998. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and VA certificate of eligibility you provided.

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 SCM, 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.


Finally, the Board considered your contentions that you were granted a discharge upgrade in 1985; which allowed you to qualify for a VA loan in 1998. The Board noted that your request to the NDRB in 1997 was denied. The Board found no other evidence to support your contention that you were granted an upgrade to your characterization of service or that the VA based their decision on the purported upgrade. Additionally, the Board noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. Such VA eligibility determinations, disability ratings, and/or discharge classifications are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations. Therefore, the Board was not persuaded by the evidence you provided¹.

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.

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,

9/15/2025



¹ Should you choose to seek reconsideration, the Board recommends you provide additional supporting evidence that the Department of the Navy changed your discharge characterization in 1985.