



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

██████████
Docket No. 2840-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 21 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 Marine Corps and began a period of active duty on 26 August 2008. Between 13 February 2009 and 22 April 2010, you received nonjudicial punishment (NJP) for larceny from another Marine, unauthorized absence (UA) from appointed place of duty, and disrespect towards a corporal. You were counseled concerning your previous UCMJ violations resulting in NJP. You were advised that failure to take corrective action could result in administrative separation. On 15 January 2010, you were counseled concerning falling to sleep while manning your post and causing the range to shut down for 15 minutes. You were advised that failure to take corrective action could result in administrative separation. On 21 April 2010, you were

counseled concerning UA from appointed place of duty. You were again advised that failure to take corrective action could result in administrative separation.

On 22 December 2010, you received a third NJP for wrongful use of a controlled substance-marijuana. Consequently, you were counseled concerning your involvement with illegal drugs. and advised that you would be processed for administrative separation. On 4 February 2011, you received a fourth NJP for two instances of breaking restrictions and wrongful use of over the counter medications to get high.

On 20 June 2011, you were counseled concerning your refusal to receive level III treatment for illegal use of marijuana. You were advised that you were in the process of being administratively separated from the Marine Corps due to the lack of consent to participate in level III treatment. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse and pattern of misconduct; at which point, you decided to waive your procedural rights. Your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service and the separation authority approved the recommendation for the primary basis of drug abuse. On 9 September 2011, you were so discharged.

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 suffered an injury during a training hike while serving as a ██████████, (b) your command completely turned against you and worked to destroy your future because of your service connected injury, (c) your first surgery was unsuccessful and hindered you from performing as a Marine due to the excessive pain, (d) you were assigned to HQs and, in doing so, you were painted a bigger target on your back, (e) you remained tactful despite the constant bombardment of lies your superiors were perpetuating, (f) you were thrown on a range watch at ██████████ while taking Percocet, (g) you were found asleep as a result of the narcotics and received an NJP for it, (h) you decided to use drugs as a result of the hazing and being a young man without help, (i) you were sent on a deployment without proper clearance from the BAS, (j) you tested positive for marijuana as a result of been mentally broken, (k) you sought help for drugs and your command used that against you instead of providing support, (l) you saved a Marine who was trying to commit suicide and later became a police officer, (m) you are seeking to receive your veterans' benefits and compensation. You also checked the "PTSD" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and advocacy letters you provided.

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 related 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 noted that marijuana use in any form is still against

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 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. While the Board carefully considered the evidence you submitted in mitigation, 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. 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 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 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,

8/5/2025

