



Docket No. 3229-25
Ref: Signature Date

Dear [REDACTED]:

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 14 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, 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 marijuana use and a civil offense of malicious destruction/tampering with a motor vehicle and commenced active duty on 23 October 1989.

On 19 September 1990, you received non-judicial punishment (NJP) for willfully disobeying a lawful order from a Sergeant. You deployed to [REDACTED] in support of Operation Desert Shield and Desert Storm from 17 December 1990 to 18 April 1991. On 9 October 1991, you deployed onboard the [REDACTED] ([REDACTED]). On 14 October 1991, you received NJP for wrongful use of cocaine. Additionally, 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. You returned from deployment on 19 February 1992. On 1 September 1993, you pleaded guilty at Special Court Martial (SPCM) to unauthorized absence (UA) and wrongful use of marijuana. You were sentenced to reduction in rank to E-1,

forfeitures, confinement, and a Bad Conduct Discharge (BCD). Subsequently, the findings and sentence in your SPCM were affirmed and you were so discharged on 19 October 1995.

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 contention your discharge should be upgraded in light of your combat service, awards, deployments, and post-discharge life changes juxtaposed with the isolated nature of your offenses. You further contend that you used drugs to self-medicate and are in need of Department of Veterans Affairs (VA) benefits. You also checked the "PTSD" box on your application but chose not to respond to the 28 March 2025 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of the personal statement you included with your DD Form 149 without any other additional documentation.

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 SPCM, 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 BCD. 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, there is no precedent within this Board's review, for minimizing the one-time, isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. However, the Board noted your record of misconduct included two drug offenses, almost a year apart, and an instance of willfully disobeying a lawful order; an offense that pre-dated your deployments. Therefore, the Board was not persuaded by your argument that you made only one mistake or that your conduct should be mitigated by your deployments. 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 commends you for your post-discharge rehabilitation, 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 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,

7/31/2025

