



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

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Docket No. 3424-25
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 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 to 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 and began a period of active duty on 8 July 2008. On 4 November 2008, your drug screening urinalysis was reported as being positive for both cocaine and marijuana use. On 9 November 2008, you incurred a 10-hour period of unauthorized absence (UA) and later had a second positive urinalysis for marijuana use. On 21 November 2008, you accepted nonjudicial punishment (NJP) for violations of Articles 86 and 112a of the Uniform Code of Military Justice (UCMJ), respectively, for your UA, your wrongful use of cocaine and marijuana. In a statement dated 3 December 2008, you expressed that you needed to go home to take care of your sister because your mother was in prison and your father had a substance abuse problem. You stated, "the Marine Corps isn't for me, I don't like to be 'owned' ... I also don't like how you have to respect someone just because he/she is a higher rank than you" because you think respect should be earned. Consequently, you were notified of processing for administrative separation by reason of misconduct due to drug abuse and elected to waive your right to a hearing before an administrative discharge board. The recommendation for your discharge under Other Than Honorable conditions was forwarded to Commanding General,

Marine Corps Installations West; who approved your separation as recommended. You were so discharged on 17 December 2008.

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 to qualify for veterans benefits and your contention that you failed a drug test and were kicked out, you know it was wrong, you have been taking many classes and programs on drug abuse and faith, and you are turning into a better man. For the purpose 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included 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. Additionally, 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. Finally, the Board considered your contention of post-discharge efforts to better your life but noted you are currently incarcerated. Therefore, the Board was not persuaded by your argument that your recent rehabilitation efforts warrant clemency.

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,

4/28/2025
