



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

[REDACTED]
Docket No. 3877-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 20 June 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 U.S. Navy and began a period of active duty service on 22 August 1985. Your pre-enlistment physical examination, on 22 August 1985, and self-reported medical history both noted no psychiatric or neurologic issues, conditions, or symptoms. On your enlistment application, you disclosed both pre-service marijuana use and a marijuana-related conviction.

On 31 March 1986, you commenced a period of unauthorized absence (UA). Your command declared you to be a deserter on 29 April 1986. Your UA terminated on 13 May 1986.

On 18 June 1986, you were convicted at a Summary Court-Martial (SCM) for your 43-day UA. The SCM Officer sentenced you to forfeitures of pay, hard labor without confinement for forty-five (45) days, and restriction for thirty-six (36) days.

On 3 July 1986, you commenced a period of UA that terminated on 7 July 1986. On 4 August 1986, you commenced another UA that terminated on 7 August 1986.

On 2 September 1986 the Convening Authority approved the SCM sentence as adjudged.

On 17 October 1986, you commenced a period of UA that terminated on 26 October 1986. On 31 October 1986, you commenced another UA that terminated on 3 November 1986. On 19 November 1986, you commenced another UA that terminated on 20 November 1986. On 27 January 1987, you commenced another UA that terminated on 29 January 1987.

On 11 February 1987, a Navy Drug Screening Laboratory message indicated that you tested positive for marijuana. On 25 February 1987, you commenced yet another UA that terminated on 9 March 1987.

On 21 April 1987, you were convicted at a Special Court-Martial (SPCM) of: (a) nineteen (19) separate UA offenses, (b) the wrongful use of a controlled substance, and (c) breaking restriction. The SPCM Military Judge sentenced you to a period of confinement lasting ninety (90) days.

On 18 May 1987, your command notified you of administrative separation proceedings by reason of: (a) misconduct due to the commission of a serious offense, and (b) misconduct due to drug abuse. You consulted with counsel and elected your rights to submit statements and to request an administrative separation board (Adsep Board).

On 16 July 1987, an Adsep Board convened in your case and at which you were represented by a Navy Judge Advocate. You provided a sworn statement on your own behalf. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously determined that the preponderance of the evidence presented proved you committed both misconduct due to drug abuse and due to the commission of a serious offense. Subsequent to the misconduct findings, the Adsep Board members unanimously recommended that you separated with an under Other Than Honorable conditions (OTH) characterization of service.

On 29 April 1988, the Chief of Naval Personnel (CNP) recommended to the Secretary of the Navy (ASN(M&RA)) that you should be separated with an OTH discharge characterization. On 17 May 1988, ASN(M&RA) approved CNP's recommendation. Ultimately, on 20 June 1988, you were separated from the Navy for misconduct with an OTH discharge characterization and assigned an RE-4 reentry code. Following your separation, your former command revoked your security clearance on 7 July 1988.

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 were found innocent at your court martial and told to return to your base, (b) you are a law abiding citizen and served your country with heart but was accused of something you didn't do, and (c) you were found innocent and still treated unfairly. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to

deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board noted that marijuana use in any form is still against current Department of Defense regulations and not permitted for recreational use while serving in the military. The Board additionally noted that the simple fact remains is that you also left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse multiple times for no less than seventy-seven (77) days. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

Further, the Board was not persuaded by your contentions regarding your innocence based on the record that reflects that you were convicted, not once, but twice at two different courts-martial of multiple serious offenses. Absent substantial evidence to the contrary, the Board determined the presumption of regularity applies in your case.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative 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 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,

7/2/2025

Executive Director

Signed by: