



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 3978-25

Ref: Signature Date

[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 18 November 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 and commenced active duty on 29 September 1979. On 28 November 1980, you commenced a period of unauthorized absence (UA) that ended on 13 January 1981. On 14 January 1981, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for UA, willfully disobeying a lawful order, and assault of a superior commissioned officer. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Ultimately, your request was denied and, on 23 March 1981, you were found guilty at Special Court Martial (SPCM) of those three offenses. You were sentenced to forfeitures and confinement at hard labor.

On 30 March 1982, you received non-judicial punishment (NJP) for possession of marijuana on 26 March 1982. On 8 July 1982, you commenced a period of UA that ended in your surrender on 13 July 1982. On 12 August 1982, you received NJP for two specifications of UA totaling six

days. On 30 July 1982, you commenced a period of UA that ended in your surrender on 12 August 1982.

Based on the information in your record, it appears that you submitted another voluntary written request for an undesirable discharge in order to avoid trial by court-martial for UA. In the absence of evidence to contrary, it is presumed that prior to submitting this voluntary discharge request, you would have conferred with a qualified military lawyer, been advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you would have acknowledged that your characterization of service upon discharge would be under Other Than Honorable (OTH) conditions.

After a legal review, the separation authority approved your request and you were so discharged on 7 January 1983.

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 you served honorably, did not use marijuana, and were never tested or given a trial or office hours. 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 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 SPCM, NJPs, and request for separation in lieu of trial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. The Board determined that illegal drug use or possession 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. Further, the Board determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a second court-martial conviction and possible punitive discharge. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

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 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,

12/12/2025

