



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

██████████
Docket No. 4067-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 6 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. Marine Corps and began a period of active duty service on 25 June 1981. Your pre-enlistment physical examination on, 31 December 1980, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.

On 28 August 1982, your command issued you a "Page 11" warning (Page 11) documenting your illegal entry into the Camp Kinser swimming pool area and the consumption of alcohol in an unauthorized area. On 14 October 1982, you received non-judicial punishment (NJP) for failing to obey a lawful order. A portion of your punishment was suspended. You did not appeal your NJP.

On 29 October 1982, your command issued you a Page 11 documenting your frequent involvement with military authorities. The Page 11 expressly advised you that any further

incidents involving military authorities will cause you to be recommended for a discharge due to frequent involvement (aka "pattern of misconduct).

On 1 November 1982, the suspended portion of your NJP from 14 October 1982 was vacated and enforced due to your continuing misconduct. On 1 November 1982, you received NJP for breaking restriction and for losing your military identification card through neglect. You appealed your NJP but higher authority denied your appeal on 3 November 1982.

On 22 March 1983, you received NJP for violating a lawful general regulation by wrongfully using marijuana. You did not appeal your NJP.

On 6 December 1983, you received NJP for: (a) the wrongful use of marijuana, (b) the wrongful possession of marijuana, (c) the wrongful possession of drug paraphernalia (a government pen which has been fashioned into a pipe), and (d) failing to obey a lawful order. You did not appeal your NJP. On 7 December 1983, your on-base driving privileges were suspended by higher authority.

On 14 March 1984, you received NJP for: (a) four (4) separate specifications of insubordinate conduct, and (b) for wrongfully asking for, accepting, and receiving money for crossing out gear listed on a fellow Marine's custody card. You did not appeal your NJP.

On 29 March 1984, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. The basis for your command's recommendation was your established pattern of involvement of a discreditable nature with military authorities as evidenced by your five (5) NJPs. You consulted with counsel and subsequently waived your rights to submit statements and to request an administrative separation board.

On 30 March 1984, your command recommended to the Separation Authority that you should receive an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 2 May 1984, you were separated from the Marine Corps for misconduct with an OTH discharge characterization and assigned an RE-3B reentry code.

On 9 March 2011, this Board denied your first petition for discharge upgrade relief.

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) current service members who are discharged for marijuana use do not usually receive OTH discharges, and (b) you have had multiple strokes and other health issues that have made functioning difficult. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application; which consisted solely of the information you included on your DD Form 149 without any additional documentation.

After thorough review, the Board concluded these potentially mitigating factors and contentions 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 illegal drug use is contrary to military core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. The Board noted that marijuana use is still against Department of Defense regulations and its use in any form is still not permitted for recreational use while serving in the military. 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 Marine. The Board determined that the record clearly reflected your pattern of 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.

The Board noted that your service record included five (5) NJPs, only two of which were drug-related. The Board concluded that your cumulative misconduct was not minor in nature and demonstrated a repeated failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

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. While the Board carefully considered the evidence you submitted in mitigation and was sympathetic to your current health issues, 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 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,

6/17/2025

