



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 4362-25

Ref: Signature Date

[REDACTED]

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 17 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, 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case on the evidence of record.

During your enlistment processing you disclosed a pre-service infraction of stealing gas. You enlisted in the U.S. Marine Corps and began a period of active duty on 29 September 1976. On 6 January 1978, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA). On 31 March 1978, you received a second NJP for misrepresenting that two service members were authorized to eat at the Dining Facility at no charge and violated a general regulation by failing to report the UA status of these service members. Your appeal of the NJP was subsequently denied. On 7 December 1978, you were convicted in Beaufort County South Carolina of possession, possession with intent to distribute, and distribution of marijuana. You were sentenced to five years of confinement, a fine of \$5,000.00, and four years of probation.

Consequently, you were notified of your pending administrative processing by reason of civilian conviction; at which time you elected your procedural right to consult with counsel and waived your right to have your case heard before an administrative discharge board. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 16 January 1979.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 and your contentions that: (1) you are submitting this request in order to obtain Department of Veterans Affairs (VA) healthcare, (2) while on leave before transferring to [REDACTED] you stayed in the Parris Island area to say goodbye to the friends you had made over the past two years, (3) during your service, marijuana was in constant use among military personnel and you had it for personal use while on leave, (4) while visiting four friends at their off-base residence you were smoking and reminiscing when another Marine, accompanied by someone you assumed to be his girlfriend arrived, (5) the Marine asked if anyone has marijuana for sale, and as the only person with marijuana, you sold him two marijuana cigarettes, (6) you were subsequently arrested and charged with possession, possession with intent to distribute, and distribution as the Marine's girlfriend was an undercover police officer, (7) you wish to clarify that you only sold to what you believed was a friend, (8) since your discharge, you have lived life as a truck driver with 32 years, accumulating over three million miles, and delivering goods across the United States, (9) you have been married and divorced twice, and have two beautiful children, (10) you are a cancer survivor and recipient of a heart transplant, (11) you are an avid volunteer, and (12) you are currently in your second year serving as the Mayor of your community. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statement, and character letters.

After a 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 NJPs and civilian conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it 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.

Additionally, the Board considered the likely discrediting effect your civilian conviction had on the Marine Corps. Further, the Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. 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. Therefore, the Board determined that your discharge was proper and equitable under the standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

While the Board carefully considered the evidence you submitted in mitigation, 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. 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 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,

12/2/2025

