



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. 5046-25
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 8 September 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).

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 based on the evidence of record.

You enlisted in the Navy and commenced active duty on 7 October 1985. Prior to enlisting, you signed the Navy Drug and Alcohol Abuse Statement of Understanding. On 11 March 1987, you received non-judicial punishment (NJP) for willfully committing malicious mischief. On 22 June 1987, you received NJP for wrongful use of marijuana, breaking liberty risk, and two instances of unauthorized absence from your appointed place of duty. Additionally, you were issued an administrative remarks counseling page 13 concerning your disciplinary infractions and pattern of misconduct. Consequently, you were notified of intended administrative separation processing for misconduct due to drug abuse and commission of a serious offense.

You elected the right to submit a written statement and obtain copies of documents used in the separation process. In your written statement, you admitted to smoking a cigarette containing marijuana offered to you by another Sailor because you were depressed. Your commanding officer recommended your separation with an Other Than Honorable (OTH) characterization of service and you were ultimately so discharged for drug abuse on 23 July 1987.

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 characterization of service and change your reason for separation. Your contention that you used marijuana only one time, your quality of service supports an upgrade notwithstanding your youthful indiscretion, the Wilkie Memo emphasizes the marijuana use may be viewed as less severe, you have 40 years of post-discharge exemplary conduct and public service, and the shame and stigma you have already suffered should mitigated your misconduct. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your legal brief, personal statement, and advocacy letters.

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 NJPs, 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 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 noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, although you contend a one-time use of marijuana, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. However, the Board noted your record of misconduct included several additional incidents of misconduct and was not limited to a single incident of drug abuse. Your commanding officer commented that you were not amenable to further Honorable service and, regarding the seriousness of the drug related misconduct, your drug abuse onboard the aircraft carrier created a "grave danger to [you] as well as other crewmembers with whom [you] works." The Board felt his comments regarding your drug related conduct was telling and does not support your contentions that your drug abuse should now be viewed as less serious or that the quality of your service supports mitigation of your drug abuse.

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. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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 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,

9/15/2025

