



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. 5239-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 23 May 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 after being granted a waiver for pre-service drug involvement and began a period of active duty on 17 March 2003. On 16 March 2006, you were awarded the Good Conduct medal. On 31 May 2006, a message from the Naval Drug Laboratory reported your urinalysis screening test as positive for cocaine use. On 26 July 2006, you were convicted by Summary Court-Martial (SCM) for a single charge and specification of violation of the Uniform Code of Military Justice (UCMJ) under Article 112a due to wrongful use of a controlled substance.

Consequently, you were notified of processing for administrative separation by reason of misconduct due to commission of a serious offense and elected to voluntarily waive your right to a hearing before an administrative separation board. During this processing, a letter from your platoon sergeant expressed surprise at your drug abuse misconduct; noting that you were one of

his “most experienced, capable Crewchiefs” who “stood out in the platoon as one of the Marines to go to for tactical and technical expertise for the junior Marines. Likewise, in his 11 August 2006 recommendation for your discharge under Other Than Honorable (OTH) conditions, your commanding officer reported that your company was imminently set to deploy forward into harm’s way and that you knew your action were wrong but consciously chose “a route of gross misconduct” which caused him to lose confidence in your judgment and your commitment to your fellow Marines. As a result, your separation under OTH conditions was approved and you were so discharged on 20 September 2006.

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 and change your narrative reason for separation to Secretarial Authority. You contend that your discharge warrants an upgrade on the basis of clemency factors in light of your post-discharge character and accomplishments, assert that your misconduct was a one-time incident and lapse in judgment during a time of stress and immaturity weighed against an otherwise commendable enlistment which included two deployments with the ██████████, and acknowledge that your misconduct occurred at a house party prior to a scheduled combat deployment after a lot of drinking and with the encouragement of senior Marines who encouraged everyone to be “ready to ride or die” as you were all heading together into combat. You believe that it was a material error to fail to take into account your individual record of service with respect to your misconduct discharge and additionally assert that your OTH characterization does not reflect who you are today. In support of your contentions and for the purpose of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your counsel’s brief, your personal statement, the three character letters, and information you provided pertaining to your current operation of a restaurant business along with support you provide to local athletic teams.

After a thorough review, the Board concluded the potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SCM, 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. Further, the Board disagreed with your contentions that your OTH characterization was the result material error with respect to individualized consideration of your service. As explained previously, the Board noted that drug abuse is contrary to Marine Corps regulations and policy and constitutes as significant departure from the conduct expected of a Marine. Likewise, your conscious choice to use cocaine, especially with respect to the timing of your offense just prior to your deployment, caused your chain of command to completely lose confidence in your judgment and leadership. Additionally, while the Board declined to speculate whether you intentionally ingested cocaine in order for your positive urinalysis to prevent your inclusion in your unit’s combat deployment, the Board found unequivocal evidence within the available records that your unit was, in fact, scheduled for imminent deployment in direct support of combat operations which was impacted by your discharge for drug abuse. In this regard, and based on the overall quality of your service and leadership as one of the “go to” noncommissioned officers relied upon by the members of your platoon, the Board concluded that

your absence during that deployment and the adverse impact it had on your fellow Marines outweighed the mitigating factors you submitted for consideration.

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 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.

Finally, the Board noted you were recommended for a debarment order just prior to your discharge from the Marine Corps. While the Board was unable to find an actual debarment order in your record, the Board noted that debarment orders are typically issued by an appropriate authority designated aboard the particular military installation issuing such order, in accordance with local installation regulations. As such, should you desire to challenge the continued need of the debarment order, the Board recommends that you pursue an appeal of your debarment through installation commander at the issuing installation. In your case, via the Staff Judge Advocate for Commanding General, [REDACTED]; as outlined in Combat Center Order 5500.19B of [REDACTED].

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,

6/20/2025

[REDACTED]