



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

[REDACTED]
Docket No. 5875-25
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 9 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 entered a period of active duty on 10 July 1998. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 27 December 2002. On 13 September 2005, you received non-judicial punishment (NJP) for wrongful use of marijuana. After your command initiated administrative separation processing, you tested positive for marijuana on two additional occasions. Consequently, you were referred to a special court-martial. On 10 April 2006, you submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial due to your misconduct. 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. Your request was accepted, and your commanding officer (CO) was directed to issue an Other Than Honorable (OTH) discharge for the GOS. On 2 May 2006, you were so discharged.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. You argued your drug abuse was an isolated event and was not reflective of your previous Honorable service. On 23 September 2010, the NDRB denied your request after determining that your discharge was proper as issued.

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 contentions that you did not know you were receiving an OTH discharge, you have become a better father, remained employed, volunteered with local charities, and remained trouble free since your discharge. You further contend that you are in pursuit of receiving disability benefits. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 and DD Form 214 without any other additional documentation.

After 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 NJP and your voluntary request for a GOS discharge, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved drug related offenses. 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 noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and 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 court-martial conviction and possible punitive discharge.

Contrary to your contention that you did not know you were receiving an OTH discharge, the Board noted that your GOS separation request clearly states that your counsel fully advised you of the consequences of your request and you were fully satisfied with his advice¹. Additionally, 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. Finally, the Board considered that you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

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

¹ Your signed request specifically states, "I understand that if my discharge is Under Other Than Honorable Conditions, it may deprive me of virtually all veterans' benefits based upon my current period of active service..."

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.

In reviewing your record, the Board believes you may be eligible for Department of Veterans Affairs (VA) benefits based on your period of continuous Honorable service. The Board recommends you apply to your nearest VA office to determine your eligibility.

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,

9/24/2025
[REDACTED]