



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

██████████
Docket No. 6723-25
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 1 April 2026. 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 following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the U.S. Navy and began a period of active duty service on 28 January 1985. Your pre-enlistment physical examination, on 16 January 1985, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, or history. You disclosed pre-service marijuana usage on your enlistment paperwork.
2. On 31 October 1986, you were convicted at a Special Court-Martial (SPCM) of: (a) the wrongful possession of drug paraphernalia, and (b) three (3) separate specifications of assault. You were sentenced to, *inter alia*, a period of confinement, and a reduction in rank/grade to E-2. On 7 December 1986, you were released from confinement.

3. On 14 January 1987, your command issued you a “Page 13” retention warning (Page 13) documenting your SPCM conviction. The Page 13 advised you that any further deficiencies in performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

4. Following your SPCM conviction and return to your command, you subsequently submitted a voluntary written request for an administrative discharge for the good of the service under Other Than Honorable conditions (OTH) in lieu of trial by court-martial for additional misconduct separate and distinct from your SPCM conviction.¹

5. In the interim, your separation physical examination, on 30 April 1987, noted no psychiatric or neurologic conditions or symptoms.

6. On 7 May 1987, the Separation Authority approved your voluntary discharge request for the good of the service in lieu of trial by court-martial. Ultimately, on 8 May 1987, you were separated from the Navy in lieu of a trial by court-martial with an OTH discharge characterization and assigned an RE-4 reentry code.

7. On 17 July 1995, the NDRB denied your discharge upgrade application. The NDRB determined that you failed to submit substantial credible evidence to rebut the presumption of regularity. Therefore, the NDRB presumed regularity in the conduct of governmental affairs in connection with the processing of your voluntary discharge request and subsequent administrative separation.

In your application to this Board, you express a desire for your discharge character of service be upgraded and your reason for separation be changed. You contend that:

1. Your request is made for reasons of material error and material injustice.
2. You have spent more than forty (40) years living under the shadow of your OTH characterization of service.
3. Your OTH has served its inherently punitive purpose, and no other valid reason for its continuation remains.
4. You have taken responsibility for the choice that led to your separation, rebuilt your life through hard work, earned the respect of your community, and mentored countless youth for future success.
5. Your current characterization of service does not reflect the whole Sailor, nor the man you have become.

¹ While the Board was unable to locate your request in your record, as noted in your Naval Discharge Review Board (NDRB) decision, your Certificate of Release or Discharge from Active Duty (DD Form 214) references approval of your request on 7 May 1987.

6. Correcting your record would not excuse past mistakes, it would acknowledge a lifetime of growth and service.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. The Board noted you take responsibility for committing the misconduct that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions, the totality of your service, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, your service to your community, the evidence you provided in support of your application, the character references you provided for review, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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. In addition, the Board determined that drug paraphernalia possession 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Moreover, the Board also 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. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. While the Board commends you for your post-service accomplishments and appreciates your acceptance of responsibility for your conduct, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

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,

4/3/2026

