



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

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Docket No. 6975-25
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 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 4 February 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. On 21 September 1999, you enlisted in the U.S. Marine Corps and began a period of active duty. During your enlistment processing you were granted an enlistment waiver for pre-service marijuana use. On 14 April 1999, you signed the U.S. Marine Corps statement of understanding regarding the Marine Corps' policy concerning the illegal use of drugs.
2. On 30 July 2002, you refused substance abuse treatment.
3. On 5 August 2002, you received nonjudicial punishment (NJP) for two specifications of unauthorized absence (UA) from your appointed place of duty.

4. On 20 August 2002, you entered into a pretrial agreement in which you agreed to waive your right to an administrative discharge board and to accept either NJP or trial by a summary court-martial (SCM) in exchange for charges pending before a special court-martial.

5. On 27 August 2002, you were convicted by summary court-martial (SCM) of wrongful use of marijuana and sentenced to reduction in rank, forfeiture of \$736.00 pay per month for one month, and confinement for 30 days.

6. Consequently, you were notified of your pending administrative processing by reason of drug abuse. On 18 September 2002, you waived your right to present your case to an administrative discharge board after consulting with counsel. On 24 September 2002, you again refused substance abuse treatment.

7. On 9 October 2002, you commenced a period of UA which lasted 123 days. Your record doesn't indicate that you received any punishment for your period of UA. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 14 February 2003.

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. While the Board carefully considered your contention for mitigation, the Board noted you did not deny committing the misconduct that formed the basis for 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 contentions, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, the circumstances surrounding your period of UA, 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 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 also found that your conduct 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 concluded you

already received a large measure of clemency when the Marine Corps chose not to punish you for your 123 day period of UA. The Board determined your extended UA was an offense that could have resulted in a punitive discharge, especially in light of your previous record of misconduct, had they pursued adjudication at a special court-martial. 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. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. Based on the same rationale, the Board determined your reason for separation, separation code, separation authority, and reentry code remain appropriate. While the Board commends you for your post-service accomplishments and appreciates your acceptance of responsibility for your conduct, 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,

3/10/2026

