



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

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Docket No. 7306-25  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 January 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 Marine Corps and began a period of active duty on 13 February 2006.
2. On 25 July 2006, you were counseled concerning your failure to comply with the parameters of your assigned liberty phase. You were advised that failure to take corrective action could result in administrative separation.

3. On 19 August 2006, you began a period of unauthorized absence (UA) which lasted 15 days and resulted in your apprehension by civil authorities. Between 3 October 2006 and 10 April 2007, you received nonjudicial punishment (NJP) for the aforementioned period of UA and violation to the MEU Liberty Order, respectively.

4. On 11 August 2008, you were counseled concerning your actions in which you and two other Marines removed and destroyed a sign which promoted the abstinence of alcohol and drugs while operating a vehicle. You were advised that failure to take corrective action could result in administrative separation.

5. On 14 September 2008, you received a third NJP for failing to drive the posted speed limit in a government vehicle.

6. On 4 October 2008, you were counseled concerning illegal drug involvement and advised that you will be processed for administrative separation. On the same date, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse; at which point, you decided to waive your procedural rights.

7. On 9 December 2008, you were convicted by summary court martial (SCM) for wrongful use of a controlled substance-marijuana. You were sentenced to reduction in rank, forfeiture of pay, and a period of confinement.

8. On 11 December 2008, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service. Between 9 February 2009 and 6 March 2009, you were counseled for further illegal drug involvement and advised that you will be processed for administrative separation.

9. After your administrative separation proceedings were determined to be sufficient in law and fact, the separation authority approved the commanding officer's recommendation and you were so discharged On 30 April 2009.

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 contentions for mitigation, it noted that you did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and were properly separated with an OTH characterization of service.

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, the totality of your service<sup>1</sup>, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your post-service record of accomplishments, your service to your community, the character references you provided for review, your remorse, your desire for veterans' benefits, and the passage of time since your discharge.

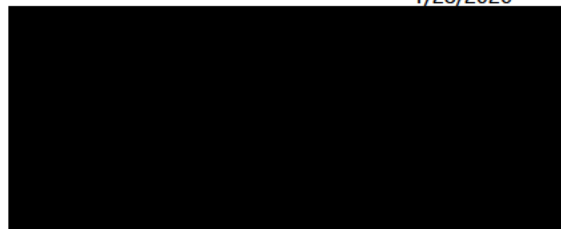
The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given 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 considered 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 considered the likely negative effect your conduct had on the good order and discipline of your unit. 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.

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 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,

1/28/2026



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<sup>1</sup> The Board noted you mentioned suffering from a mental health condition in your statement. However, you did not indicate on your application that it was a mitigating factor in your misconduct, did not provide any evidence to support your claim, and specifically stated, "that you do not offer this as an excuse." Therefore, the Board did not apply liberal consideration to your mental health claim.