



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

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Docket No. 7789-25
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■■■■■■,
USN, ■■■■■■■■■■

Ref: (a) 10 U.S.C. § 1552
(b) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997
(c) USD (P&R) Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018
(d) NAVPERS 15560A, Naval Military Personnel Manual, 1 January 1982

Encl: (1) DD Form 149, signed 14 July 2025 (with enclosures)
(2) DD Form 214
(3) OPNAV 5216/145, Naval Speedletter (0462), 3 June 1986
(4) NAVPERS 1070/607, Court Memorandum (P601-7R), 29 January 1986
(5) NAVPERS 1070/613, Administrative Remarks, 30 January 1986
(6) ■■■■■■■■■■ Message, subj: Misconduct Disch ICO [Petitioner],
dtg 091844Z JUN 86
(7) BCNR Letter Docket No. NR20250007789, 23 July 2025
(8) Petitioner's E-mail, subj: [Non-DoD Source] NR20250007789, sent Wednesday,
August 6, 2025 @ 3:58:32 PM

1. Pursuant to the provisions of reference (a), the Subject's spouse, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records, hereinafter referred to as the Board, requesting that the Subject's discharge characterization be upgraded.¹

2. A three-member panel of the Board convened in executive session on 19 December 2025 to review Petitioner's allegations of error or injustice pursuant to its governing policies and procedures and determined by a majority vote that the corrective action reflected in paragraph 6a below should be taken on the Subject's naval record in the interests of justice. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include reference (c).

3. Factual Background. Following are the relevant facts of Petitioner's case based upon review of the Subject's naval record and/or the matters provided by Petitioner for review:

¹ Petitioner's application included a note signed by the Subject authorizing his spouse to submit this application on his behalf. The Board considered this signature sufficient to satisfy the requirement of reference (b) that that the person whose records are to be reviewed must sign the application.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

a. The Subject enlisted in the Navy and commenced a period of active-duty service on 29 December 1982. See enclosure (2).

b. On 13 December 1985, Petitioner tested positive for the use of marijuana during a ship-wide urinalysis. See enclosure (3).

c. On 29 January 1986, Petitioner received non-judicial punishment for the wrongful use of marijuana referenced in paragraph 3b above in violation of Article 112a, Uniform Code of Military Justice. His punishment consisted of the forfeiture of \$358 pay per month for two months; 45 days of extra duties and restriction; and reduction to the next inferior pay grade.² See enclosure (4).

d. On 30 January 1986, the Subject was formally counseled in writing regarding his wrongful use of marijuana. He was warned that any further deficiencies in his performance and/or conduct could result in disciplinary action and/or in processing for administrative separation. See enclosure (5).

e. On 21 April 1986, the Subject again tested positive for the use of marijuana when he provided a urine sample pursuant to his rehabilitation program. He also reportedly admitted to his ship's medical officer that he was a regular marijuana user. See enclosure (3).

f. By message dated 9 June 1986, the separation authority directed that the Subject be discharged from the Navy under other than honorable (OTH) conditions for misconduct due to drug abuse.³ See enclosure (6).

g. On 23 June 1986, the Subject was administratively discharged from the Navy under OTH conditions for misconduct due to drug abuse. See enclosure (2).

4. Procedural Background.

a. Petitioner submitted a DD Form 149 to the Board in July 2025 requesting the corrective action discussed in paragraph 1 above.⁴ She asserted that the Subject's marijuana use in the Navy was influenced by the emotional turmoil caused by his first wife's infidelity, and that he has lived a life of integrity, responsibility, humility and good character since his discharge from the Navy.⁵ She reported that the Subject has worked diligently in the automotive industry for over 40 years, where he has earned the respect of his peers and customers alike through his dedication and honesty, and that he has been an active member of a spiritual community, dedicating his time and energy to serving others and continually growing as person. She also reported that the Subject has volunteered his time as a youth basketball coach for many years,

² The reduction in grade was suspended for six months.

³ The documentation pertaining to the Subject's administrative discharge process within his naval record is incomplete. In the absence of evidence to the contrary, the Board applies the presumption of regularity to establish that all procedural and due process requirements were satisfied to sustain the Subject's discharge upon this basis.

⁴ The DD Form 149 was signed on 14 July 2025 and was received by the Board on 23 July 2025.

⁵ Petitioner's checked the box in block 14 of the DD Form 149 indicating that mental health considerations were related to this request.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

mentoring and encouraging his players to do their best. Petitioner's application was supported by an advocacy letter, documentation reflecting the Subject receipt of a NAACP "Man of Valor" award, and various certificates of accomplishments from his church and employer. See enclosure (1).

b. By letter dated 23 July 2025, the Board informed the Subject that Petitioner did not include any materials or documentation supporting her assertion that mental health considerations were related to her request, and invited him to provide any medical or clinical evidence supporting this claim. See enclosure (7).

c. By e-mail dated 6 August 2025, the Subject replied to the letter referenced in paragraph 4b above. Specifically, he stated that while his ex-wife's infidelity was a mentally-distressing time in his life which contributed to his marijuana use, he was never diagnosed with a mental health condition and that the box in block 14 of the DD Form 149 was incorrectly marked. He respectfully asked the Board to disregard this error and reported that he has been substance free for decades. See enclosure (8).

5. Conclusions.⁶

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Board found insufficient evidence of any error in the Subject's discharge under OTH conditions for misconduct due to drug abuse when it was administered. In accordance with paragraph 3630620.1a of reference (d), a Sailor could be separated for misconduct due to drug abuse based upon one or more wrongful uses of a controlled substance. The Subject's wrongful use of marijuana is not in controversy, as his record reflects that he tested positive for the use of marijuana twice during his naval service and that he admitted to more extensive drug use during this service. Accordingly, the factual predicate for the Subject's discharge upon this basis is supported by the record. It also appears that all procedural requirements were satisfied to sustain the Subject's discharge under OTH conditions upon this basis. While the Subject's naval record does not include all of the documentation pertaining to his administrative discharge process, the Board relies upon the presumption of regularity to establish that all such procedural requirements were satisfied in the absence of evidence to the contrary and Petitioner provided no such evidence or even argument suggesting any deficiency in this regard. Finally, the Board found no error in the assignment of an OTH characterization to the Subject's discharge under these circumstances. In accordance with paragraph 3630620.2a of reference (d), discharges made upon this basis were normally issued under OTH conditions.

c. In addition to considering the circumstances of the Subject's discharge under OTH conditions for misconduct due to drug abuse for error when it was administered, the Board also considered the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice pursuant to reference (c). In this regard, the Board considered, amongst other factors, the Subject's assertion that his marijuana use was influenced

⁶ Except as discussed in paragraph 5c below, the Board's conclusions were unanimous.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

by the mental distress caused by his first wife's infidelity; the relative severity and non-violent nature of the Subject's misconduct; the relative reduction in the perceived severity of marijuana use today compared to its perceived severity at the time of the Subject's misconduct, and the likelihood that a Sailor would reasonably expect to suffer the same consequences for similar misconduct today; that the Subject's performance record reflects that he performed well and was a well-regarded Sailor prior to the onset of his drug use; the Subject's post-service record of successful employment and positive involvement in his community, reflecting significant rehabilitation and resilience despite the stigma associated with his discharge; the Petitioner's statement describing the Subject's favorable character and post-service conduct; the Subject's claim to have been substance free for decades; the Subject's relative youth and immaturity at the time of his misconduct; and the passage of time since the Subject's discharge. The Board was unable, however, to reach a consensus regarding whether these considerations were sufficient to justify equitable relief in the interests of justice.

(1) *Majority Conclusion.*

(a) The Majority of the Board found these mitigating factors to sufficiently outweigh the relatively minor severity of the Subject's misconduct to justify some modest equitable relief in the interests of justice. In particular, the Majority was impressed with the Subject's obvious rehabilitation and believed that it and his favorable post-service contributions to his community warranted favorable consideration. Accordingly, the Majority found that the Subject has earned at least some relief from the stigma of his discharge in the form of an upgrade to his discharge characterization to "General (under honorable conditions)."

(b) While finding the mitigating factors discussed above to sufficiently outweigh the severity of the Subject's misconduct to justify the equitable relief described in paragraph 5c(1)(a) above, the Majority did not find those mitigating factors to so significantly outweigh the severity of the Subject's misconduct to justify the extraordinary relief represented by an upgrade of his discharge characterization to fully honorable. In this regard, the Majority noted that the Subject admitted to more extensive illegal drug use than that for which he was discharged, and considered the adverse impact that such use would have had upon the good order, discipline, readiness, and morale of his ship. The Majority also believed that such extraordinary relief would create an injustice by characterizing the Subject's prematurely terminated and less than honorable service as being on par with the quality of the service provided by the thousands of other Sailors who routinely complete their enlistments without engaging in such conduct.

(2) *Minority Conclusion.* The Minority of the Board did not find the mitigating circumstances sufficient to justify any equitable relief in the interests of justice. While recognizing and applauding the Subject's rehabilitation since his discharge, the Minority did not agree with the Majority that the Subject's misconduct was relatively minor in nature. The Minority also noted that the most recent evidence of the Subject's favorable post-service conduct provided with the Petitioner's application was nearly 10 years old. As such, the Minority applied lesser weight to this temporally remote favorable evidence than did the Majority. As a result, the Minority simply did not find the mitigating circumstances to sufficiently outweigh the severity of the Subject's misconduct to justify any equitable relief.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

6. Recommendations.

a. *Majority Recommendations.* Based upon its conclusions, as discussed in paragraph 5 above, the Majority of the Board recommends that the following corrective action be taken upon the Subject's naval record in the interests of justice:

(1) That the Subject be issued a new DD Form 214 reflecting that his service ending on 23 June 1986 was characterized as "General (under honorable conditions)." All other entries reflected on his current DD Form 214, to include his narrative reason for separation and reenlistment code, are to remain unchanged.

(2) That a copy of this record of proceedings be filed in the Subject's naval record.

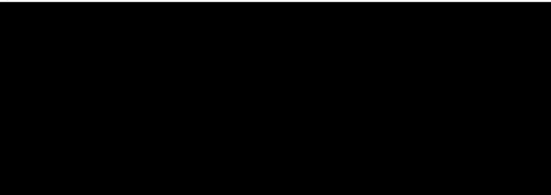
(3) That no further corrective action be taken upon the Subject's naval record.

b. *Minority Recommendations.* Based upon its conclusions as discussed in paragraph 5 above, the Minority of the Board recommends that no corrective action be taken upon the Subject's naval record.

7. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above titled matter.

8. The foregoing action of the Board is submitted for your review and action in accordance with Section 6e(1)(b) of enclosure (1) to reference (b).

3/6/2026



Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

- X MAJORITY Recommendation Approved (Grant Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended in paragraph 6a above.)
- _____ MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on Petitioner’s naval record.)
- _____ Petitioner’s Request Approved (Grant Relief – I generally concur with the Majority conclusion that equitable relief is warranted based upon the totality of the circumstances, but do not believe that the corrective action recommended by the Majority goes far enough to serve the interests of justice. Specifically, I found that the mitigating circumstances did so significantly outweigh the relatively minor severity of the Subject’s misconduct to justify relieving the Subject of all stigmas associated with his discharge. Accordingly, I direct that the Subject be issued a new DD Form 214 reflecting that his service ending on 23 June 1986 was characterized as “Honorable”; that the narrative reason for his separation was “Secretarial Authority” (or the equivalent narrative reason applied at the time of his discharge); that his separation authority was “MILPERSMAN 3630900”; that his separation code was “JFF”; and that his reenlistment code was “RE-1.” The Subject shall also be issued an Honorable Discharge Certificate.)

