



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

██████████  
Docket No. 8348-25

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 10 February 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)<sup>1</sup>.

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. Marine Corps and began a period of active duty on 7 August 1995. As part of your enlistment processing, you were granted a waiver for illegal use of marijuana.
2. On 18 September 1996, you received non-judicial punishment (NJP) for wrongful use of marijuana.

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<sup>1</sup> The Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not respond to the Board's request to provide evidence in support of your claims. In addition, your application did not include any evidence. Therefore, the Board did not consider your application under the guidance provided in the Kurta and Hagel memos.

3. In October 1996, a medical consultation was completed and annotated your positive urinalysis for marijuana and a DUI with a BAC of .11 in August 1996.

4. Subsequently, you were notified of administrative separation processing for drug abuse. You elected an administrative discharge board (ADB), which met on 30 December 1996. The ADB found that you committed misconduct and recommended your discharge with an Other Than Honorable (OTH) characterization of service.

5. Your Commanding Officer (CO) forwarded the ADB's recommendation to the Separation Authority (SA). Prior to the SA acting, you received a second NJP for being disrespectful in language, two specifications of assault, and being drunk and disorderly while under the age of 21. Ultimately, the SA accepted the ADB's recommendation and you were so discharged on 10 February 1997.

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 that you were treated harshly and railroaded into an administrative separation, the Board noted you did not deny committing the misconduct. Additionally, you provided no evidence, other than your statement, to substantiate your allegation. 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 no error exists with your 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, your contentions<sup>2</sup>, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your claim of mental health issues, 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. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an 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. Finally, the Board believed

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<sup>2</sup> The Board noted that you claimed to be "hiding my sexual orientation" and also claimed harsh treatment. However, the Board observed that you did not check the "DADT" box on your application and did not elaborate on the basis for harsh treatment. Regardless, the Board determined the DADT repeal guidance was inapplicable to your case since you were not administratively separated under DADT or a prior similar policy and your record contained aggravating factors involving misconduct.

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 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,

2/26/2026

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