



Docket No. 8468-25
Ref: Signature Date

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 20 March 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 Navy and began active duty on 15 April 1986.
2. On 23 January 1987, you received non-judicial punishment (NJP) for the wrongful use of marijuana.
3. Consequently, you were notified of pending administrative separation proceedings by reason of misconduct due to drug abuse and informed that the least favorable characterization of service you may receive was under Other Than Honorable (OTH) conditions. You elected to consult with counsel and waived your procedural rights.
4. On 7 May 1987, you were evaluated by the [REDACTED] during which you admitted to using marijuana 2-3 times a year, indicated you were unwilling to

discontinue your drug use, and stated you were willing to accept an OTH discharge. You were diagnosed as a non-dependent drug abuser.

5. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending you be discharged with an OTH characterization of service. Ultimately, the separation authority approved the CO's recommendation and you were so discharged on 2 July 1987.

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

1. No evidence or physical evidence was obtained.
2. The JAG was impatient and in a hurry to get the Captain to sign your separation documents. This was a misjudgment by JAG on a young service member.
3. Without further elaboration, you believe the Secretary of the Navy decision is "sufficient."
4. You believe relief is warranted due to changes in the law.

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 considered your contention that no evidence was obtained, presumably, regarding your drug abuse. However, the Board noted you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. In fact, you admitted to committing the same offense several times a year. 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, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, 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, while the Board acknowledged that some states have changed the legality of marijuana use, it remains prohibited under federal law and in the military. Moreover, the Board found that your conduct showed a complete disregard for military authority and regulations. In considering your CAAC interview, and the fact you signed a Drug and Alcohol Abuse Statement of Understanding

acknowledging that drug abuse is against the law, you readily admitted to being a casual drug abuser and were unwilling to change your behavior even to remain in the Navy. Thus, the Board was not persuaded by your argument that an error in judgement was made by the command legal officer or your commanding officer regarding your potential for future military service. 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. 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 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

