



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 8621-25

Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interests of justice. A three-member panel of the Board, sitting in executive session, considered your application on 21 November 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).

You enlisted in the Navy and began a period of active duty on 10 December 2003. On 29 April 2005, a message from the Naval Drug Laboratory reported your drug screening urinalysis as positive for marijuana metabolites. You were subject to nonjudicial punishment (NJP) for violation of Article 112a of the Uniform Code of Military Justice due to wrongful use of a controlled substance and subsequently notified of processing for administrative separation by reason of misconduct due to drug abuse. In your election of rights, you requested a hearing before an administrative discharge board (ADB) with representation by legal counsel. On 18 August 2005, the ADB the members substantiated the basis for separation and recommended that you be discharged under Other Than Honorable (OTH) conditions. This recommendation was approved and you were so discharged on 19 September 2005.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and your contention that

your urinalysis testing was not “substantiated” by a second test; which you believe was required under the Uniform Code of Military Justice. You also state that you have been rehabilitated for years. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and DD Form 214.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it was a drug offense. The Board concluded that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board further noted that marijuana use in any form is still against current Departmental regulations and not permitted for recreational use while serving in the military. Additionally, the Board found that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor.

Further, the Board observed that government’s burden in substantiating the basis of misconduct due to drug abuse is to establish by a preponderance of the evidence that the alleged drug use did, in fact, occur. A three-member panel consisting of at least two officers and one senior enlisted member reviewed the evidence submitted in support of the basis for your separation and found it to substantiate the alleged misconduct. The Board determined this was consistent with applicable rules and regulations.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

12/10/2025

[REDACTED]