



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204



Docket No. 8690-25

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 February 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 Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 U.S. Marine Corps and began a period of active duty service on 3 March 2002. As part of your enlistment processing, you signed and acknowledged the "Statement of Understanding – Marine Corps Policy Concerning Illegal Use of Drugs and you disclosed pre-service marijuana use, as well as being previously rejected for military service due to testing positive for a controlled substance in December 1999. Your pre-enlistment physical examination, on 11 December 2001, and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms.

2. After a period of continuous Honorable service, you immediately reenlisted on 3 October 2006 and commenced your final period of active duty.

3. On 12 December 2006, your command issued you a Page 11 counseling sheet wherein you acknowledged that you understood the UCMJ Article 134 prohibiting adultery, and that any violation could be punishable under the UCMJ and that maximum punishment could include a dishonorable discharge, total forfeitures, and confinement. The Page 11 advised you that a failure to take corrective action, or any subsequent UCMJ violations may result in judicial or adverse administrative action, including but not limited to administrative separation.

4. On 22 May 2007, you received non-judicial punishment for failing to obey a lawful order from your commanding officer when you violated his Military Protective Order on diverse occasions between 12 December 2006 and 7 February 2007 by continuing to have contact with a certain female Marine. You received the maximum permitted punishment at NJP and you did not appeal your NJP. Your USMC Fitness Report for the period ending 21 May 2007 noted the following: "MRO willfully and knowingly disobeyed a lawful order given to him by the Commanding Officer."

5. When you checked into your new squadron in September 2007, you tested positive for marijuana. You again tested positive for marijuana just two weeks later on an all-hands urinalysis. The Board noted that the marijuana metabolite level for each of your urine samples increased between your first and second urinalysis tests, respectively, which was evidence of your continued wrongful use of marijuana.

6. On 16 October 2007, you signed a pretrial agreement (PTA) whereby you agreed to accept a Summary Court-Martial (SCM), enter a plea of guilty to certain drug-related offenses, and waive your right to an administrative separation board. In exchange for your PTA, the Convening Authority agreed to withdraw such charges and specifications from your pending Special Court-Martial.

7. On 25 October 2007, pursuant to your guilty pleas, you were convicted at a SCM of two (2) separate specifications of the wrongful use of a controlled substance (marijuana). The Court sentenced you to confinement for thirty (30) days and a reduction in rank to Private First Class (E-2).

8. Consequently, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. Pursuant to the terms of the PTA, you waived your right to request a hearing before an administrative separation board.

9. The Staff Judge Advocate to the Separation Authority (SA) determined that your separation proceedings were legally and factually sufficient. On 19 December 2007, the SA approved and directed your discharge with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 21 December 2007, you were separated from the Marine Corps for misconduct with an OTH discharge characterization, and assigned an RE-4B reentry code.

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 for mitigation, the Board noted 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 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, the totality of your service, 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 rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, 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 drug use is contrary to military core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. Further, 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. 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. While the Board commends you for your post-service accomplishments, ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct.

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,

3/5/2026

