



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

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Docket No. 8942-25
Ref: Signature Date

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Dear ■■■■■■

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 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 Marine Corps and began a period of active duty on 10 September 2001.
2. On 27 November 2002, you received your first non-judicial punishment (NJP) for operating a vehicle while under the influence.
3. On 10 March 2003, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct, specifically disrespect towards a

non-commissioned officer. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

4. On 22 January 2004, you received your second NJP for the wrongful use of a controlled substance. However, your punishment was suspended for six months. As a result, you were issued a Page 11 retention warning/counseling that cautioned you that additional misconduct may result in administrative separation processing.

5. The next day, you failed to obey a lawful order or regulation when you reported to muster with an earring in your left ear. As a result, the suspended punishment from your NJP was vacated.

6. On 28 January 2004, you were notified of pending administrative separation proceedings by reason of misconduct due to drug abuse. You were informed that the least favorable characterization of service you may receive is under Other Than Honorable (OTH) conditions. You waived your procedural rights to consult with counsel and to request a hearing before an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an OTH. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner]'s potential for future service in the Marine Corps is severely limited. He used marijuana and shows no remorse for his actions. [Petitioner] was NJP'd on 22 January 2004 for his use of marijuana, at which time a portion of his sentence was suspended for 6 months if no further misconduct occurred. While serving on restriction, [Petitioner] reported into the Officer of the Day for restriction and extra duties with an earring in his left ear, again violating Article 92 of the Uniform Code of Military Justice. His disregard for Marine Corps standards is a detriment to this battalion and warrants that he be discharged from the Marine Corps at the earliest possible convenience of the Division. I recommend that [Petitioner] be discharged with an other than honorable characterization.

7. The SA approved the CO's recommendation and you were so discharged on 23 March 2004.

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

1. At your time of service, you did not clearly understand that you had a substance abuse problem.

2. You completed basic training and MOS school without any hitches, and did very well in the active fleet.

3. It wasn't until you got with a few bad apples and participated with them in using your drug of choice that you were separated due to the Zero Tolerance Policy.

4. After being discharged, you experienced some very difficult times and encounters with police officers.

5. Reflecting upon your life, you knew you needed a change but didn't know how.

6. It wasn't until you met your current mentor (pastor/counselor) that you learned and accepted you had a drug problem.

7. With almost 16 years of being clean and sober it would be a great honor to have your discharge upgraded and part of your history completed.

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 noted you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. 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, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, the evidence you provided in support of your application, the character references you provided for review, 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 concluded that your misconduct 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 also was sufficiently pervasive and serious to negatively affect the good order and discipline of your unit. Further, 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. 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. While the Board commends you for your post-service accomplishments and 16 years of sobriety, 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

