



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

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Docket No. 9192-25

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 17 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)<sup>1</sup>.

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. Navy and began a period of active duty on 23 October 1990. As part of your enlistment processing, you admitted to pre-service marijuana use and were granted a waiver.

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<sup>1</sup> The Board noted you checked the "Other Mental Health" box on your application but did not respond to the Board's request to provide evidence in support of your claim. In addition, your application did not discuss any mental health issues or include any medical evidence. Therefore, the Board did not consider your application under the guidance provided in the Kurta memo.

2. On 5 November 1992, you received non-judicial punishment (NJP) for larceny.
3. On 25 March 1993, you were issued a counseling warning for pattern of non-support of dependents. You are advised that any further deficiencies in your performance or conduct may result in disciplinary action and or administrative separation.
4. On 31 March 1993, you received a second counseling warning, for pattern of personal indebtedness for dishonored checks. You are advised that any further deficiencies in your performance or conduct may result in disciplinary action and or and administrative separation.
5. On 19 May 1993, you received your second NJP for willful disobedience (of a superior warrant, noncommissioned officer, or petty officer), failure to obey order or regulation, and making a false official statement.
6. On 10 August 1993, you received your third NJP for wrongful use of marijuana.
7. Consequently, you were notified of administrative separation processing for drug abuse. You waived your rights to consult with counsel and a hearing before an administrative discharge board. The commanding officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation, and you were so discharged on 30 March 1994.

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 that formed the basis for 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.

In addition to applying liberal consideration to your claimed mental health condition and its potential effect upon your conduct in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contention that the “zero tolerance” policy has changed, the totality of your service, your need for veterans’ benefits, 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 homelessness, 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 noted that marijuana use remains illegal under federal and military law, and Navy regulations require mandatory processing for separation of service members suspected of abusing controlled substances. Therefore, the Board was not persuaded by your contention that a change in policy warrants relief in your case. 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 noted you provided no evidence other than your Certificate of Release or Discharge from Active Duty (DD Form 214), to support your contentions. As a result, while the Board acknowledged your contentions regarding the personal difficulties you are experiencing, 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,

3/9/2026

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Executive Director

Signed by: █