



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

██████████
Docket No. 9332-25
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 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 this 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 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo) and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board also considered an advisory opinion (AO) furnished by qualified mental health provider and your response to that AO.

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 a period of active duty on 5 August 1981.
2. On 26 July 1985, you received nonjudicial punishment for violating Uniform Code of Military Justice (UCMJ) Article 112a (wrongful use of marijuana). You received punishment of restriction for 45 days, extra duty for 45 days, forfeiture of \$250 pay per month for two months, and reduction in rank. Subsequently, you were offered rehabilitation treatment and refused it.

3. On 21 August 1985, you were notified that administrative separation proceedings had been initiated against you on the basis of misconduct due to drug abuse and drug rehabilitation failure. You were advised of your rights and elected not to consult with counsel or appear before an administrative separation board.

4. On 6 September 1985, Commanding Officer (CO), ██████████ recommended that you be separated from naval service with an Other Than Honorable (OTH) discharge characterization of service due to drug abuse and drug rehabilitation failure.

5. Ultimately, on 17 October 1985, you were discharged from the Navy on the basis of Misconduct-Drug Abuse with an OTH characterization of service and a reentry code of RE-4.

In your application for correction, you request an upgrade to your characterization of service to Honorable and contend that:

1. You were discharged from military service due to marijuana use, which is now legal or has been reduced to a misdemeanor offense in some places.

2. While you were in the Navy, substance abuse was a way for you to escape from the abuse and sexual trauma to which you were subjected as a child.

3. This trauma affects various aspects of your life.

4. Post-service, you gave up controlled substances at the age of 35 and found the Lord.

5. You have turned your life around for the better and would greatly appreciate consideration for a discharge upgrade to reflect an Honorable characterization of service.

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 due to record of misconduct and refusal of drug treatment. The Board noted you take responsibility for your substance abuse during your enlistment. 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.

However, because you raised the issue of mental health, the Board also requested an AO. As part of the Board's review, a licensed clinical psychologist reviewed your contentions and the available records, and issued an AO on 23 January 2026. The AO was furnished to the Board and stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He was repeatedly

evaluated and denied symptoms of a mental health condition, including a substance use disorder. He has provided no medical evidence in support of his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service substance use that appears to have continued in service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a mental health condition."

In response to the AO, you provide a statement with additional information about the abuse inflicted upon you by your stepfather prior to entering the Navy. You also note your positive contributions as a youth pastor, in the military, and as person who has grown over the years and given back. The licensed clinical psychologist reviewed your rebuttal and noted that no new medical evidence was submitted. Therefore, the AO remained unchanged.

The Board applied liberal consideration to your claim of grappling with mental health challenges and personal circumstances and how those challenges may have had an impact upon the conduct for which you were discharged in accordance with the Kurta Memo. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact you provided no medical evidence in support of your claim. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion. The Board recognized that your pre-service trauma may have impacted you during your enlistment, but absent information about a mental health condition that existed during military service and which may have impacted your ability to meet the expected standards of conduct, the Board found insufficient evidence to conclude that your wrongful use of marijuana was attributable to mental health challenges you may have faced during military service.

In addition to applying liberal consideration to your claimed mental health condition and its potential effect upon your conduct in accordance with the Kurta Memo, 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, the totality of your service to include service highlights, the non-violent nature of your misconduct, your relative youth and immaturity at the time of his misconduct, your post-service record of accomplishments, your service to your community, the character references provided for review, your post-discharge efforts at rehabilitation, 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 your wrongful use of marijuana while on active duty was not overcome by all of the mitigating factors combined. In particular, the Board determined that use of a controlled substance while in an active-duty status was not only contrary to military core values and policy, is posed an unnecessary risk to the safety and wellbeing of your shipmates. Further, the Board was not persuaded by your argument that marijuana use is a misdemeanor in some jurisdictions. The Board noted that marijuana use remains illegal under federal law and in the military. 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. 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. While the Board commends you for your post-service accomplishments and acknowledged the personal difficulties you have endured, 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,

4/6/2026

