



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

Docket No. 9456-25
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 7 April 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined 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:

- After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty with the Navy on 25 July 1980.¹
- On 15 December 1981, you received non-judicial punishment (NJP) for possession of marijuana.

¹ Your record contains a separate DD Form 214 that documents your first enlistment period and Honorable discharge. This DD Form 214 can be used to establish your eligibility for certain veterans benefits.

- On 18 January 1982, you were counseled and informed that any further drug abuse may result in administrative separation.
- On 25 January 1982, a Drug and Alcohol Evaluation determined you were not drug dependent.
- On 3 February 1982, civil authorities convicted you of possession of marijuana with intent to sell. Subsequently, you were referred to and successfully completed the Navy Drug Safety Action Program (NDSAP) Education Course on 10 May 1982.
- On 4 November 1983, you received NJP for larceny.
- On 17 November 1983, a Substance Abuse Report noted your multiple incidents of drug abuse and the fact you did not agree with the Navy's Zero Tolerance Policy. You requested to be discharged at the earliest possible date.
- On 26 November 1993, you received NJP for wrongful use of marijuana.
- Consequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After electing to waive your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation and you were so discharged on 9 January 1984.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that you have maintained a clean record since your discharge 41 years ago.

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 for your administrative separation and OTH discharge. As a result, the Board concluded the presumption of regularity applies to your OTH discharge 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 contention, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, 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 possession

or 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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given several 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. 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. In making their finding, the Board noted you provided no evidence, other than your statement, in support of your application. Finally, The Board also noted that there is no provision of federal law or in Navy regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. While the Board considered the length of time since your misconduct, they determined the severity of your misconduct outweighed any mitigation resulting from it.

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,

4/23/2026

