



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

██████████
Docket No. 67-26
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 you did not file your application 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 30 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 14 October 1996.
2. On 4 April 1997, you received nonjudicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ) Article 86 (unauthorized absence (UA) from 27 March 1997 to 31 March 1997). You were awarded punishment of forfeiture of \$370 pay per month for two months, 30 days restriction, and 30 days extra duty.

3. On 3 April 2000, you received a second NJP for violation of UCMJ Article 112a (wrongful use of marijuana). You were awarded punishment of reduction in rank to E-1, forfeiture of \$560 pay per month for two months, 45 days restriction, and 45 days extra duty.

4. Consequently, you were notified that administrative separation proceedings had been initiated against you on the basis of misconduct due to drug abuse. You acknowledged your rights and waived your right to consult with counsel and to appear before an administrative separation board.

5. Ultimately, on 12 May 2000, you were discharged from the Marine Corps with an Other Than Honorable (OTH) characterization of service and assigned a reentry code of RE-4.

In your application to the Board, you request an upgrade to your discharge characterization from OTH to Honorable and contend that:

1. You spent your entire active-duty service with no disciplinary issues until the last five months.

2. You were dealing with medical issues, a lot of stress, and that you are in the process of working on medical benefits.

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 considered that your in-service records indicate that you had a medical condition(s) that may have impacted your suitability for continued military service, your wrongful use of a controlled substance was appropriately used by your command as the basis to pursue a discharge due to misconduct. Additionally, the Board noted you did not deny committing the misconduct that formed the basis for your NJP. Therefore, the Board determined the presumption of regularity applies to your administrative separation on the basis of misconduct and no error exists with your OTH discharge 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, 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 your misconduct, the claimed stress caused by your medical challenges, the evidence you provided in support of your application, 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 found that your conduct of wrongful use of marijuana while on active duty showed a complete disregard for military authority and regulations and unnecessarily risked the safety and well-being of your fellow Marines. Further, contrary to your contention, the Board noted you received NJP at the beginning and end of your

active duty service. Regardless, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. 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. 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

