



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

Docket No. 229-26
Ref: Signature Date

[REDACTED]

Dear [REDACTED]

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 27 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).

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. Marine Corps and began a period of active duty service on 7 October 1976. Your pre-enlistment physical examination, 12 March 1976, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.
2. On 21 February 1978, you made a voluntary statement to the Naval Investigative Service (NIS) where you admitted sole ownership of the following contraband seized from your residence off-base: (a) thirty (30) bags of marijuana, (b) a wooden bowl containing marijuana, and (c) fifteen (15) Ionamin capsules. In your statement you disclosed that you agreed to

purchase a kilo of marijuana for \$400 from a ██████████ male national near the XYZ Club in ██████████, ██████████. You also disclosed that you purchased the Ionamin (a controlled substance) from a bargirl at the ██████████. You further admitted that the \$400 you used to buy the marijuana was money you had borrowed from the ██████████ to purchase stereo equipment.

3. On 26 April 1978, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse. You consulted with counsel and elected your rights to include written rebuttal statements and request an administrative separation board (Adsep Board).

4. In the interim, on 5 June 1978, you received non-judicial punishment (NJP) for failing to obey a lawful written order. You did not appeal your NJP.

5. On 13 June 1978, an Adsep Board convened in your case. At the Adsep Board, you were represented by military counsel. Following the presentation of evidence and any witness testimony, the Adsep Board members recommended to retain you on active duty.

6. However, on 6 July 1978, you received NJP for: (a) two separate specifications of unauthorized absence (UA), and (b) two separate specifications of failing to obey a lawful written order. You did not appeal your NJP. On the same day, your command issued you a "Page 11" warning (Page 11) documenting your frequent involvement with civil/military authorities of a discreditable nature. The Page 11 advised you that unless you took corrective action he would be recommended for discharge with a less than Honorable discharge.

7. On 28 July 1978, you again received NJP for two separate specifications of failing to obey a lawful written order. You did not appeal your NJP.

8. Your commanding officer (CO) did not concur with the Adsep Board's recommendation to retain you in light of the overwhelming evidence substantiating of your serious drug-related misconduct. Accordingly, on 31 July 1978, your CO strongly recommended to the Secretary of the Navy (SECNAV) that you be separated with a General (Under Honorable Conditions) ("GEN") characterization of service due to your illicit drug involvement. In his recommendation, your CO stated in pertinent part:

On 21 February 1978, [Petitioner] was apprehended for illegal possession of 523 grams of marijuana and fifteen (15) capsules of Ionamin, a controlled substance classified as amphetamine. In his sworn statement 21 February 1978...[Petitioner] admits sole ownership of these drugs and that he had personally purchased them. Due to the quantity of the marijuana and the fact that it was divided into thirty bags, it is apparent that [Petitioner] intended to unlawfully distribute this substance. If this amount of marijuana was being retained for personal use, then [Petitioner] would most likely require a great deal of time and a high degree of personal involvement as a drug user, to personally utilize that quantity.

Since being considered for administrative separation, [Petitioner] has been the

subject of three (3) office hours, as evidenced by page 12 of his service record...His flagrant disregard for authority has placed an administrative and supervisory burden on this command. [Petitioner's] actions have disrupted the good order and discipline of this command. [Petitioner's] downward trend shows that he should not be retained on active duty. If retained, I believe that his actions would be a miscarriage of justice and would have a profound negative effect on other impressionable young Marines.

9. On 1 September 1978, a Staff Judge Advocate (SJA) at Headquarters, U.S. Marine Corps (Judge Advocate Division) concluded that your administrative separation proceedings were legally and factually sufficient. The SJA specifically noted:

When an administrative discharge board recommends retention and the discharge authority believes that separation is warranted, the recommendation for discharge, in order to be effected, must be forwarded to the Secretary of the Navy. If approved, such a discharge can be no less favorable than a general discharge under honorable conditions for convenience of the government...

10. On 23 October 1978, the Director, Personnel Management Division at Headquarters, U.S. Marine Corps, recommended to SECNAV that you be separated by reason of the convenience of the government with a GEN discharge characterization.

11. On 7 November 1978, the Assistant Secretary of the Navy (Manpower, Reserve Affairs & Logistics), approved and directed your GEN discharge characterization, along with an RE-3C reentry code. Ultimately, on 1 December 1978, you were so discharged.

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 admitted to 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.

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 contentions, 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 rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, your service to your community, your advanced age, 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 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 an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH discharge. Specifically, after you were recommended for retention by the Adsep Board, you were subject to two additional NJPs for multiple offenses. As explained by your commanding officer, 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. Moreover, the Board found no evidence that your separation or GEN characterization of service was disparate based on the Adsep Board's recommendation to retain you. The Board was unable to fathom the reasoning behind the Adsep Board's recommendation based on the statement of the Chairman of the Adsep Board that your case is "more appropriate for other punitive action," however, the Board fully agreed with the CO's conclusions that your retention would have been a miscarriage of justice and resulted in a "profound negative effect on other impressionable you Marines." In the end, the Board determined you were extremely fortunate to receive a GEN characterization of service for misconduct that, if not for existing evidentiary hurdles associated with a foreign country police search, likely would have resulted in a punitive discharge at a court-martial. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of your misconduct led them to conclude that your service was not Honorable. The Board commends you for your post-service accomplishments and efforts to contribute to your community but, 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,

3/12/2026

