



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

■  
Docket No: 7266-21  
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 4 February 2022. 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).

You enlisted in the Marine Corps and began a period of active service on 8 November 1976. From the period beginning on 23 May 1978 to 12 August 1980, you went on three periods of unauthorized absence (UA), totaling 772 days. You began a fourth period of UA on 3 September 1980. On 26 March 1983, you were apprehended by civil authorities. On 28 April 1983, you were found guilty by a civilian court of two counts of violation of probation, and burglary. On 3 November 1983, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to civil conviction, at which point, you waived your right to consult with counsel and review of your case by an administrative discharge board (ADB). On 14 December 1983, your administrative separation proceedings were determined to be sufficient in law and fact. On 19 December 1983, the discharge authority approved and directed your separation with an other than honorable character of service by reason of misconduct due to civil conviction. On 21 December 1983, you were discharged in absentia.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These

included, but were not limited to, your desire to upgrade your character of service. You contend you were informed you would receive a general character of service upon your discharge. The Board noted you failed to provide sufficient evidence to support your contention. Please note members of the armed services who are subject to conviction by civil authorities and, if such action is taken, may be discharged. The Board did not find evidence of an error or injustice in your record. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, your repeated lengthy periods of UA, and civil conviction. 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,

2/17/2022

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Executive Director  
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