



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

■
Docket No: 918-21
Ref: Signature Date



Dear ■

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 14 March 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 duty on 6 July 1982. On 11 May 1983, you received nonjudicial punishment (NJP) for disobeying a lawful order. In December 1983, you were counseled concerning insubordination and disrespect. During the period from 17 April to 29 June 1984, you received three NJPs for unauthorized absence, disobeying a lawful order, and disrespect. Additionally, you were counseled concerning your belligerent attitude, poor conduct, and disrespect. Your case was forwarded to the separation authority recommending you receive an other than honorable (OTH) discharge due to a pattern of misconduct. It was stated that you had demonstrated an uncooperative and uncaring attitude. Your disruptive behavior reflected a total disregard for authority, and the good order and discipline of the organization. On 16 July 1984, a Staff Judge Advocate reviewed your case and found it to be sufficient in law and fact. On 30 July 1984, the separation authority directed your OTH discharge. On 31 July 1984, you were discharged from the Marine Corps with an OTH characterization of service.

Your original service record was incomplete and did not contain all of the documentation relating to your separation from the Marine Corps. Absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith.

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 contentions that: (a) you were never court-martialed, breached any security, and there was never any serious misconduct; and (b) there was never any abuse of authority, and you were active two years of a three-year contract. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your four NJP's and being counseled on more than one occasion outweighed these mitigating factors. 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,

3/21/2022

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Executive Director

Signed by: █