



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

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Docket No: 2152-22
Ref: Signature Date

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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 6 April 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 entered active duty with the Marine Corps on 19 August 1980. On 10 August 1981, you received non-judicial punishment (NJP) for disobeying a lawful order to shave. On 24 February 1982, your commanding officer (CO) identified you as being involved in an incident of illegal drug use. On 26 February 1982, you received NJP for willfully disobeying a lawful order and being disrespectful in language toward a non-commissioned officer (NCO). On 8 March 1982, your CO directed you to attend the command's drug and alcohol rehabilitation course. After completing the drug and alcohol rehabilitation course, your CO granted you retention and referred you to the GRP drug and alcohol rehabilitation course. On 1 April 1982, you successfully completed the GRP drug and alcohol rehabilitation course. However, during the period from 23 November 1982 to 27 January 1983, you received two additional NJPs for unauthorized use of a telephone calling card, absence from appointed place of duty, willfully disobeying a lawful order, and willfully disobeying a lawful regulation.

Although the Board lacked your entire service record, the Board relied on a presumption of regularity that you were notified of the recommendation that you be discharged by reason of misconduct due to a pattern of misconduct. After waiving your rights, your CO forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to a pattern of misconduct with and other than honorable (OTH) characterization of service. The SA approved the recommendation, and on 3 June 1983, you were so discharged.

As stated previously, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to rebut the presumption, to include evidence submitted by the Petitioner, the Board presume that you were properly discharged from the Marine Corps.

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 discharge, contentions that your migraines had an effect on your misconduct and performance, no one was trained to help you with your alcohol abuse, you were treated differently, and a Marine gave you the phone card to use. The Board also noted your contentions that you were a great wireman/switch board operator, always willing to help others, and eager to learn.

The Board noted that there is no evidence in your record, and you submitted none, to support your contentions that migraines had an effect on your misconduct and performance, a Marine gave you the phone card to use, and you were treated differently. The Board also noted that the record contains documented evidence, which is contrary to your contention that no one was trained to help you with your alcohol abuse. The record clearly shows that you attended and completed two separate drug and alcohol rehabilitation programs, which resulted in you being retained in the Marine Corps. Lastly, the Board noted that a Marine's service is characterized at the time of discharge based on performance during the current enlistment.

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 NJPs, outweighed these mitigating factors. In making this finding, the Board determined that your conduct showed a complete disregard for military authority and regulations. As a result, when weighing the seriousness and frequency of your misconduct against your active duty service, the Board concluded that the preponderance of the evidence supports a finding that your conduct was a significant departure from that expected from a Marine and continues to merit an Other than Honorable characterization of service. 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,

4/25/2022

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Executive Director

Signed by:

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