



**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: 2333-22

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 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 20 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 enlisted in the Marine Corps Reserves, and began a period of active duty for training on 30 November 1972. On 10 April 1973, you received non-judicial punishment (NJP) for an unauthorized absence. Thereafter, on 19 May 1973, you received an Honorable characterization for your period of active duty service and afterwards continued your reserve enlistment. During the period from 13 July 1974 to 14 September 1975, you accumulated 14 unexcused absences from drill. On 19 September 1975, you were informed by your commanding officer's (CO) intent to recommend you for involuntary active duty. In response to this recommendation, you provided a written statement.

Subsequently, on 23 October 1975, you were notified via certified mail of your commanding officer's (CO) intent to recommend you for administrative separation from the Marine Corps Reserve by reason of unfitness due to shirking. You were advised of your right to consult with military counsel. The Board noted you failed to respond to the administrative separation

notification. On 8 November 1975, an administrative discharge board (ADB) was convened. You were not present, however, you were represented by military counsel in your absence. The ADB recommended your administrative separation from the Marine Corps Reserve with an Other Than Honorable (OTH) characterization of service. The CO then forwarded your administrative separation package to the separation authority (SA) recommending approval of the ADB recommendation. The staff judge advocate review of the proposed discharge found the separation proceedings sufficient in law and fact. The SA approved the recommendation and directed your administrative separation from the Marine Corps Reserve with an OTH characterization of service. On 6 February 1976, you were so discharged. You previously applied to the Naval Discharge Review Board and were denied on 24 December 1987.

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 and contention that your discharge is now unjust based on the passage of 46 years since your discharge. Based upon this review, the Board found that your discharge and characterization of service was supported by the evidence in your case. Further, the Board concluded your misconduct, as evidenced by your 14 unexcused absences from drills, outweighed the mitigation factors. In making this finding, the Board considered the seriousness of your misconduct, the fact your command provided you the financial means to attend your drills, and your cavalier attitude toward your military obligations as expressed in a letter to your command. Furthermore, there is no provision of law or in Marine Corps regulations that allows for recharacterization of service due solely to the passage of time. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. The Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded 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,

5/6/2022

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