



**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: 2554-22  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 13 July 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board for an upgrade to your characterization of service and were denied on 29 November 1994. Previous to this Board's denial, the Naval Discharge Review Board also denied your request for relief in 7 February 1984.

You enlisted in the Marine Corps and began a period of active duty on 29 September 1978. On 13 June 1980, you received non-judicial punishment (NJP) for absence from your appointed place of duty. On 30 July 1980, you were issued an administrative remarks (Page 11) counseling concerning inappropriate behavior toward noncommissioned officers (NCO), abusive language and poor attitude. During the period from 12 August 1980 to 28 April 1981, you received five

instances of non-judicial punishment (NJP). Your offenses were willfully disobeying a lawful order, absence from your appointed place of duty on two occasions, four specifications of unauthorized absence totaling three days, three instances of failure to go at the time prescribed to your appointed place of duty, and two instances of willfully disobeying an order from superior NCO. Subsequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You were advised of, and waived your procedural rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The SA approved and directed your OTH discharge from the Marine Corps. On 4 June 1981, you were discharged from the Marine Corps with an OTH characterization of service by reason of misconduct due to frequent involvement of a discreditable nature with military authorities.

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 character of service and contentions that your mother was forced to sign you up for the Marine Corps before you could finish high school, that you were forced to enter the Marine Corps, that despite being forced into the Marine Corps, you did well until you arrived at ■■■■■■■■■■. Additionally, you marked "PTSD" and "Other Mental Health" on your application as related to your request. However, you did not provide any evidence with your application to support your claim. On 7 April 2022, you were requested to provide additional medical or clinical evidence to support your claim but chose not to do so. For purposes of clemency consideration, the Board noted you provided two advocacy letters but no supporting documentation describing post-service accomplishments.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your six NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Finally, the Board concluded there was no evidence to support your assertions of a mental health condition. 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. While the Board considered your post-discharge good character, after applying liberal consideration, 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 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, \_\_\_\_\_

7/28/2022



Deputy Director

