



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: 3503-22
7054-06
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 you did not file your application in a timely manner, the statute of limitations was waived in the interests of justice. A three-member panel of the Board, sitting in executive session, considered your application on 27 June 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 this 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 and entered a period of active duty in the Marine Corps on 6 December 1984. On 26 June 1986, you received nonjudicial punishment (NJP) for being absent from your appointed place of duty for three hours in violation of Article 86, Uniform Code of Military Justice (UCMJ). Your service record indicates you were provided the opportunity to consult with counsel prior to accepting this NJP. Your second NJP occurred, on 6 August 1986, for failure to be at the time prescribed at your appointed place of duty and disrespect towards a Sergeant in violation of Articles 86 and 91, UCMJ. Your service record indicates you were provided the opportunity to consult with counsel prior to accepting this NJP. On 24 September 1986 you received a third NJP for the UA and for wrongful use of a controlled substance, "AMP/METHAMP/PCP," as detected by a urinalysis. These offenses were in violation of Articles 86 and 112a, UCMJ. Your service record indicates you were provided the opportunity to consult with counsel prior to accepting this NJP. Your final NJP

occurred, on 21 October 1986, for six specifications of Article 86, UCMJ. You were UA for a 10 minute, 20 minute, and 60 minute period and failed to go to your appointed place of duty on three occasions. As a result of your misconduct, you were notified of administrative separation processing by reason of misconduct due to a pattern of misconduct. Your service record indicates you consulted with counsel and waived an administrative discharge board. The separation authority indicated in a letter, dated 12 December 1986, that your case had been reviewed by a judge advocate in accordance with applicable references. On 19 September 1986, you were discharged with an Other Than Honorable (OTH) characterization of service.

You previously applied to this Board for a discharge upgrade and were denied on 10 April 2007. You request for reconsideration was also denied on 4 November 2019 based on a lack of new evidence.

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 and contentions that that you were not afforded your due process rights regarding your NJPs nor administrative separation processing. You state documents were unsigned, missing, and you were not afforded the opportunity to consult counsel until you received your administrative processing letter of notification. You further contend you were injured, did not report it due to fear of bringing attention to your chain of command, yourself, and looking incompetent. You state you started self-medicating with various drugs due to the injury and never received any counseling or rehabilitation treatment. You contend your discharge is overly harsh for a one-time nonviolent drug offense and multiple violations of Article 86, UCMJ. You state you did not fit into the Marine Corps and experienced racial discrimination because you are African American. You further state your post-service conduct warrants clemency. For purposes of clemency consideration, the Board noted you provided advocacy letters but no supporting documentation describing post-service accomplishments.

Based on 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 considered the seriousness of your misconduct and the fact it included a drug offense. In its deliberations, the Board also noted you were afforded your procedural rights prior to your NJPs and administrative separation processing. Therefore, you were aware that you could have refused NJP or requested an administrative discharge board had you opted to contest the charges in a different forum. Furthermore, the Board found that your multiple infractions over a six month period were appropriately addressed by your command and reviewed by a staff judge advocate prior to your discharge. 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 commended 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 that your request does not merit relief.

