



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: 4712-22
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.

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 9 September 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the United States Marine Corps Reserve (USMCR) and completed your required active period of service from 27 March 1986 to 26 June 1986. While on active service, you were counseled on 2 July 1985 and notified of the USMCR requirement of participation of inactive duty training (IDT).

On 15 July 1987, you were counseled due to your nine unexcused absences from scheduled drill. You were again counseled, on 8 August 1987, of your failure to attend drill and warned that

further misconduct would result in an administrative reduction in rank and separation processing. At that time, you declined to make a statement.

On 21 January 1988, you were again notified of unsatisfactory performance after accumulating two additional unexcused absences. On 22 March 1988, you were again counseled on unsatisfactory performance after you missed a mobilization exercise without excuse. Subsequently, you were counseled on three more occasions for unsatisfactory participation in scheduled drills.

On 7 March 1989, you were notified of the initiation of administrative separation proceedings by reason of unsatisfactory participation. At which point, based on your absence, you failed to acknowledge receipt of notification, therefore waiving your procedural rights. Your commanding officer recommended your separation from the USMCR with an Other Than Honorable (OTH) character of service by reason of unsatisfactory participation. In his recommendation, your commanding officer stated you made no attempt to contact the unit and correct your drill status. After your administrative separation proceedings were determined to be sufficient in law and fact, the separation authority approved and directed your discharge. On 31 May 1989, you were discharged with an OTH characterization of service due to your unsatisfactory participation.

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 characterization of service and change your date of discharge to 1 June 1989. You argued in your application that you were wrongfully issued an OTH despite notifying your chain of command that you lacked reliable transportation to attend scheduled drills. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 documented unexcused absences from scheduled drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the multiple documented attempts by your command to get you to comply with your obligated service requirements. Additionally, the Board considered the fact you were fully aware of your obligation to attend drills and, according to your commanding officer and contrary to your assertion, made no attempts to correct your deficient performance. 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. 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.

Finally, the Board found no basis to change your assigned discharge date. The Board found ample evidence in your record that you were discharged on 31 May 1989 pursuant to the separation authority approval of 16 May 1989. Based on any evidence to the contrary, the Board found no error or injustice with your documented discharge date. 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,

9/29/2022



Executive Director

Signed by:

