



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

■  
Docket No: 5102-22  
Ref: Signature date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 27 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, 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 Marine Corps and began a period of active duty on 30 November 1979. On 9 June 1980, you received nonjudicial punishment (NJP) for failure to obey a lawful order. On 20 June 1980, you received a second NJP for a two day UA. On the same date, you were counseled for frequent involvement. You were advised that failure to take corrective action could result in administrative separation. From a period beginning on 23 June 1980 to 15 September 1980, you began three periods of UA totaling 31 days, and 14 minutes. As a result, you were counseled and advised that failure to take corrective action could result in administrative separation. Further, on 25 September 1980, you received a third NJP for the UAs.

On 6 October 1980, you began a fifth period of UA which lasted nine-days and 19 minutes resulting in another counseling and a fourth NJP. On 24 October 1980, you were counseled for frequent involvement with military authorities and, again, advised that failure to take corrective action could result in administrative separation. On 24 November 1980, you began a sixth period of UA which lasted 25 days, 2 hours, and 29 minutes. As a result, on 6 January 1981, you were notified of the initiation of administrative separation proceedings by reason of expeditious discharge program. On 21 January 1981, the discharge authority approved and ordered a General (Under Honorable Conditions) discharge characterization of service by reason of expeditious discharge program. On 6 February 1981, you were discharged.

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 for a discharge upgrade and contentions that you were having financial issues as a result of not getting paid, you received numerous NJPs as a result of your financial issues, and you elected to go UA in several occasions with the intent to donate blood, make money, and care for your mother. However, you further contend that her condition worsened, forcing you go UA again. For purposes of clemency consideration, the Board noted you provided supporting documentation describing post-service accomplishments but no 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 NJPs, outweighed these mitigating factors. The Board considered the seriousness of your misconduct and the likely negative effect it had on the good order and discipline of your command. Further, the Board noted you provided no evidence to substantiate your contentions. Finally, the Board did not find your arguments in mitigation persuasive since there was no evidence you sought assistance despite multiple attempts by your chain of command to correct your conduct issues. 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 commends your post-discharge accomplishments, 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.

Regarding your request for a pay records review, the Board determined you have not yet exhausted your administrative remedies through the Marine Corps. You may submit your request to Headquarters, United States Marine Corps, 3280 Russell Road, Quantico, VA 22134-5103 with evidence supporting your allegations.

You are entitled to have the Board reconsider its decision upon the 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, \_\_\_\_\_

8/19/2022

