

DEPARTMENT OF THE NAVY

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

> Docket No: 7237-22 Ref: Signature Date

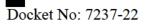
Dear Petitioner:

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 14 December 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 enlisted in the Marine Corps and began a period of active duty on 21 August 1989. On 18 October 1989, you were evaluated and diagnosed with adjustment disorder with mixed emotional features, and recommended for administrative discharge. On 24 October 1989, you were issued an administrative remarks (Page 11) counseling concerning your inability to adapt to military environment. Additionally, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of entry level performance and conduct. You were advised of, and waived your procedural right to consult with military counsel. 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 Uncharacterized Entry-Level Separation. The SA approved the recommendation for administrative discharge, and directed your Uncharacterized Entry-Level Separation from the Marine Corps by reason of entry level performance and conduct. On 27 October 1989, you were discharged from the Marine Corps with an Uncharacterized Entry-Level Separation by reason of entry level performance and conduct.

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 change your narrative reason for separation and contention that you were not discharged due to conduct, but rather after being examined by a psychiatrist for depression. You further contend that you were given an "honorable discharge" and yet your Certificate of Release or Discharge from Active Duty (DD Form 214) states that you were discharged due to "conduct" despite no issue regarding your conduct. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your narrative reason for separation is appropriate in your circumstances and authorized by regulatory guidance. In making this determination, the Board noted that a Marine unable to complete basic training requirements due to an inability to adapt may be discharged with an entry level performance and conduct narrative reason for separation. Furthermore, regarding your characterization of service, the Board noted your DD Form 214 annotates your characterization of service as "Uncharacterized." Applicable regulations authorize an Uncharacterized Entry-Level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service, as in your case. Therefore, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants changing your narrative reason for separation, or granting relief as a matter of clemency or equity. 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.

